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Sussex County

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GEORGETOWN, DELAWARE



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

November 23, 2021

Ms. Betty Tustin
The Traffic Group, Inc.
104 Kenwood Court
Berlin, Maryland 21811

Dear Ms. Tustin:

The enclosed Traffic Operational Analysis (TOA) review letter for the **Turnberry (f.k.a. Unity Branch)** (Tax Parcels: 234-10.00-199.00, and 234-16.00-1.01, 1.02, 3.00, 4.00 and 5.00) residential development has been completed under the responsible charge of a registered professional engineer whose firm is authorized to work in the State of Delaware. They have found the TOA to conform to DelDOT's Development Coordination Manual and other accepted practices and procedures for such studies. DelDOT accepts this letter and concurs with the recommendations. If you have any questions concerning this letter or the enclosed review letter, please contact me at (302) 760-2124.

Sincerely,

Claudy Joinville
Project Engineer

CJ:km

Enclosures

cc with enclosures: Mr. Jason Palkewicz, Solutions IPeM
Mr. David Edgell, Office of State Planning Coordination
Mr. Jamie Whitehouse, Sussex County Planning and Zoning
Ms. Joanne Arellano, Johnson, Mirmiran, & Thompson, Inc.
DelDOT Distribution

DelDOT Distribution

Brad Eaby, Deputy Attorney General
Shanté Hastings, Director, Transportation Solutions (DOTS)
Pamela Steinebach, Director, Planning
Mark Luszcz, Deputy Director, Traffic, DOTS
Peter Haag, Chief Traffic Engineer, Traffic, DOTS
Michael Simmons, Assistant Director, Project Development South, DOTS
Todd Sammons, Assistant Director, Development Coordination
T. William Brockenbrough, Jr., County Coordinator, Development Coordination
Chris Sylvester, Traffic Studies Manager, Traffic, DOTS
Alistair Probert, South District Engineer, South District
Matthew Schlitter, South District Public Works Engineer, South District
Jared Kauffman, Service Development Planner, Delaware Transit Corporation
Tremica Cherry, Service Development Planner, Delaware Transit Corporation
Anthony Aglio, Planning Supervisor, Statewide & Regional Planning
Wendy Polasko, Subdivision Engineer, Development Coordination
Steve McCabe, Sussex Review Coordinator, Development Coordination
Mark Galipo, Traffic Engineer, Traffic, DOTS
Brian Yates, Subdivision Manager, Development Coordination
Annamaria Fumato, Project Engineer, Development Coordination



November 19, 2021

Mr. Claudy Joinville
Project Engineer
Delaware Department of Transportation
Development Coordination, Division of Planning
800 Bay Road
Dover, DE 19901

RE: Agreement No. 1945F
Project Number T202069012
Traffic Impact Study Services
Task 3-7A – Turnberry (f.k.a. Unity Branch) TOA

Dear Mr. Joinville:

Johnson, Mirmiran, and Thompson (JMT) has completed a review of the Traffic Operational Analysis (TOA) for the Turnberry (f.k.a. Unity Branch) development, which was prepared by The Traffic Group, Inc., dated May 28, 2021. This review was assigned as Task Number 3-7A. The report is prepared in a manner generally consistent with DelDOT's *Development Coordination Manual*.

The TOA evaluates the impacts of a proposed residential development in Sussex County, Delaware. The development would be comprised of 195 single-family detached homes. The site is located on the southeast side of Hollyville Road (Sussex Road 48), southwest of Hurdle Ditch Road (Sussex Road 290). The subject property is on an approximately 145.4-acre assemblage of parcels. The land is currently zoned as AR-1 (Agricultural Residential) and the developer does not plan to rezone the land. One full access is proposed along Hollyville Road and construction is anticipated to be complete in 2027.

DelDOT currently does not have any active projects within the study area. However, the Hollyville Road and Zoar Road/Harmons Hill Road intersection was included in DelDOT's 2013 *Hazard Elimination Program* (HEP) as Site G. Site G is a 0.30-mile corridor along Zoar Road/Hollyville Road from 0.06 miles west of Avalon Road to 0.10 miles north of Harmons Hill Road. The Site G Task I Report included a crash evaluation and a sight distance review of the Hollyville Road and Zoar Road/Harmons Hill Road intersection. The Task I Report recommended that an additional study be performed at the Hollyville Road intersection with Zoar Road/Harmons Hill Road to determine improvements to reduce the potential for angle crashes.

The Site G Task II Report included additional evaluations to determine improvements at the Hollyville Road intersection with Zoar Road/Harmons Hill Road. The additional evaluations included a multi-way stop control warrant analysis, a traffic signal warrant analysis, a capacity and queue assessment, and a roundabout evaluation. The Task II Report recommended the interim improvement of an all-way stop control with warning beacons and signage, and the ultimate



improvement of a roundabout in conjunction with the developments in the area. Under existing conditions, the intersection is all-way stop-controlled.

Based on our review of the TOA, we have the following comments and recommendations:

Based on the level of service (LOS) evaluation criteria as stated in DelDOT's *Development Coordination Manual*, none of the intersections exhibit LOS deficiencies.

Although the proposed unsignalized two-way stop-controlled Site Entrance along Hollyville Road does not exhibit LOS deficiencies, DelDOT requested an analysis of the intersection configured as a roundabout as a traffic calming measure along Hollyville Road. With the implementation of a roundabout, the intersection would operate at LOS A during the weekday AM and PM peak hours under Case 3 future with development conditions. However, we do not recommend that the developer install a roundabout.

The unsignalized two-way stop-controlled Hollyville Road intersection with Hurdle Ditch Road also does not exhibit LOS deficiencies. Additionally, based on a field visit, sight distance is sufficient along every approach to the intersection. However, based on the *Road Design Manual*, a separate left turn lane should be provided along the northbound approach of Hollyville Road to Hurdle Ditch Road. As such, it is recommended the developer improve the northbound Hollyville Road approach to Hurdle Ditch Road to provide a separate left turn lane.

The subject study is a TOA which was scoped to address specific intersections where DelDOT required additional information to determine the need for offsite improvements. Although the Delaware Route 5 and Hollyville Road/Hollymount Road intersection is not a study intersection, per the February 5, 2021 Scoping Meeting Memorandum, DelDOT will require that the developer enter into a traffic signal agreement at the intersection of Delaware Route 5 and Hollyville Road/Hollymount Road.

Should Sussex County approve the proposed development, the following items should be incorporated into the site design and reflected on the record plan. All applicable agreements (i.e. letter agreements for off-site improvements and traffic signal agreements) should be executed prior to entrance plan approval for the proposed development.

1. The developer shall improve Hollyville Road within the limits of their frontage to meet DelDOT's standards for Functional Classification as found in Section 1.1 of the *Development Coordination Manual* and elsewhere therein. The improvements shall include both directions of travel, regardless of whether the developer's lands are on one or both sides of the road. Frontage is defined in Section 1 of the *Development Coordination Manual*, which states "This length includes the length of roadway perpendicular to lines created by the projection of the outside parcel corners to the roadway." Questions on or appeals of this requirement should be directed to the DelDOT Subdivision Review Coordinator in whose area the development is located.



- The developer should construct a full access site entrance on Hollyville Road, approximately 3,350 feet north of the northeast point of tangency at the Zoar Road/Harmons Hill Road intersection. The intersection should be consistent with the lane configurations shown in the table below.

| Approach | Current Configuration | Proposed Configuration |
|----------------------------|------------------------------|--|
| Westbound Site Entrance | Approach does not exist | One shared left turn/right turn lane |
| Northbound Hollyville Road | One through lane | One through lane and one right turn lane |
| Southbound Hollyville Road | One through lane | One left turn lane and one through lane |

Based on DelDOT's *Development Coordination Manual*, the recommended minimum storage length is 240 feet (excluding taper) for the northbound Hollyville Road right turn lane and 135 feet (excluding taper) for the southbound Hollyville Road left turn lane. The calculated queue lengths from the HCS analysis can be accommodated within the recommended storage lengths.

- The developer should modify the Hollyville Road intersection with Hurdle Ditch Road to be consistent with the lane configurations shown in the table below:

| Approach | Current Configuration | Proposed Configuration |
|-----------------------------|--------------------------------------|---|
| Eastbound Hurdle Ditch Road | One shared left turn/right turn lane | No change |
| Northbound Hollyville Road | One shared left turn/through lane | One left turn lane and one through lane |
| Southbound Hollyville Road | One shared through/right turn lane | No change |

Based on the *Road Design Manual*, the recommended minimum storage length is 80 feet (excluding taper) for the northbound Hollyville Road left turn lane. The calculated queue length from the HCS analysis can be accommodated within the recommended storage length. The developer should submit a plan to DelDOT depicting the design of the intersection during the Entrance Plan review process.

- The developer should enter into a traffic signal agreement with DelDOT for the intersection of Delaware Route 5 and Hollyville Road/Hollymount Road. The signal agreement should include pedestrian signals, crosswalks, interconnection, and ITS equipment such as CCTV



cameras at DelDOT's discretion. At DelDOT's discretion, the developer may contribute to the Traffic Signal Revolving Fund in lieu of a traffic signal agreement.

5. The following bicycle, pedestrian, and transit improvements should be included:
 - a. A minimum of fifteen-foot wide permanent easement from the edge of the right-of-way should be dedicated to DelDOT along the Hollyville Road site frontage. Within the easement, the developer should construct a ten-foot wide shared-use path (SUP). The SUP should be designed to meet current AASHTO and ADA standards. A minimum five-foot setback should be maintained from the edge of the pavement to the SUP. If feasible, the SUP should be placed behind utility poles and street trees should be provided within the buffer area. The developer should coordinate with DelDOT's Development Coordination Section during the plan review process to identify the exact location of the SUP.
 - b. At least one internal connection of a sidewalk or shared use path should be provided from the shared-use path along Hollyville Road.
 - c. A SUP connection along the eastern side of Hollyville Road should be provided between the proposed SUPs for this site and the Fairmont site.
 - d. Minimum five-foot wide bicycle lanes should be incorporated in the right turn lane and shoulder along the northbound Hollyville Road approach to the site entrance.
 - e. ADA compliant curb ramps and marked crosswalks should be provided along the Site Entrance approach to Hollyville Road. The use of diagonal curb ramps is discouraged. The curb ramps should be designed to accommodate the SUP.
 - f. Utility covers should be moved outside of any designated bicycle lanes and any proposed sidewalks/SUP or should be flush with the pavement.

Please note that this review generally focuses on capacity and level of service issues; additional safety and operational issues will be further addressed through DelDOT's Plan Review process.

Improvements in this TOA may be considered "significant" under DelDOT's *Work Zone Safety and Mobility Procedures and Guidelines*. These guidelines are available on DelDOT's website at https://www.deldot.gov/Publications/manuals/de_mutcd/index.shtml. For any additional information regarding the work zone impact and mitigation procedures during construction, please contact Mr. Jeff VanHorn, Assistant Director for Traffic Operations and Management. Mr. VanHorn can be reached at (302) 659-4606 or by email at Jeffrey.VanHorn@delaware.gov.



Additional details on our review of the TOA are attached. Please contact me at (302) 266-9600 if you have any questions concerning this review.

Sincerely,
Johnson, Mirmiran, and Thompson, Inc.

A handwritten signature in black ink, appearing to read 'Joanne M. Arellano', written in a cursive style.

Joanne M. Arellano, P.E., PTOE

cc: Mir Wahed, P.E., PTOE
Janna Brown, E.I.T.

Enclosure

General Information

Report date: May 28, 2021

Prepared by: The Traffic Group, Inc.

Prepared for: Schell Brothers, LLC

Tax Parcels: 234-10.00-199.00 and 234-16.00-1.01, 1.02, 3.00, 4.00 and 5.00

Generally consistent with DelDOT's *Development Coordination Manual (DCM)*: Yes

Project Description and Background

Description: The TOA evaluates the impacts of a residential development consisting of 195 single-family detached homes.

Location: The subject site is located on the southeast side of Hollyville Road, southwest of Hurdle Ditch Road in Sussex County, Delaware.

Amount of Land to be developed: An approximately 145.4-acre assemblage of parcels.

Land Use approval(s) needed: Entrance Plan.

Proposed completion date: 2027.

Proposed access locations: One access point: full access entrance on Hollyville Road.

Daily Traffic Volumes:

- 2019 Average Annual Daily Traffic on Hollyville Road (Sussex Road 48): 4,371

Site Map



**Graphic is an approximation based on the Preliminary Plat prepared by The Traffic Group, Inc. dated October 16, 2020.*

Relevant and On-going Projects

DelDOT currently does not have any active projects within the study area. However, the Hollyville Road and Zoar Road/Harmons Hill Road intersection was included in DelDOT's 2013 *Hazard Elimination Program* (HEP) as Site G. Site G is a 0.30-mile corridor along Zoar Road/Hollyville Road from 0.06 miles west of Avalon Road to 0.10 miles north of Harmons Hill Road. The Site G Task I Report included a crash evaluation and a sight distance review of the Hollyville Road and Zoar Road/Harmons Hill Road intersection. The Task I Report recommended that an additional

study be performed at the Hollyville Road intersection with Zoar Road/Harmons Hill Road to determine improvements to reduce the potential for angle crashes.

The Site G Task II Report included additional evaluations to determine improvements at the Hollyville Road intersection with Zoar Road/Harmons Hill Road. The additional evaluations included a multi-way stop control warrant analysis, a traffic signal warrant analysis, a capacity and queue assessment, and a roundabout evaluation. The Task II Report recommended the interim improvement of an all-way stop control with warning beacons and signage, and the ultimate improvement of a roundabout in conjunction with the developments in the area. Under existing conditions, the intersection is all-way stop controlled.

Livable Delaware

(Source: Delaware Strategies for State Policies and Spending, 2020)

Location with respect to the Strategies for State Policies and Spending Map of Delaware:

The proposed development is located within the Investment Level 4.

Investment Level 4

Delaware's Investment Level 4 Areas are rural in nature and are where the bulk of the state's open space/natural areas and agricultural industry is located. These areas contain agribusiness activities, farm complexes, and small settlements. They typically include historic crossroads or points of trade, often with rich cultural ties. Delaware's Investment Level 4 Areas are also the location of scattered residential uses, featuring almost entirely single-family detached residential structures. Delaware's Investment Level 4 Areas also include many unincorporated communities, typically with their own distinctive character and identity. Investment Level 4 Areas depend on a transportation system primarily of secondary roads linked to roadways used as regional thoroughfares for commuting and trucking.

It is the state's intent to discourage additional urban and suburban development in Investment Level 4 Areas unrelated to agriculture and to the areas' needs. In Investment Level 4 Areas, the state's investments and policies should retain the rural landscape and preserve open spaces and farmlands, support farmland-related industries, and establish defined edges to more concentrated development. The focus for the Level 4 Areas will be to preserve and maintain existing facilities in safe working order, corridor-capacity preservation, and the enhancement of transportation facilities to support agricultural business. The lowest priority is given to transit system enhancements.

Proposed Development's Compatibility with Livable Delaware:

The proposed site would be located in Investment Level 4. The 2020 *Delaware Strategies for State Policies and Spending* states that in Investment Level 4, the priority is to sustain homes and vitality of small rural communities. Investment Level 4 areas feature almost entirely single-family detached residential structures. However, new residential development activities are not supported in Investment Level 4 areas. The proposed development is residential, and the site is comprised of agricultural lands and wildlife habitats. Therefore, the proposed development is generally not

consistent with the 2020 update of the Livable Delaware “Strategies for State Policies and Spending.”

Comprehensive Plan

(Source: *Sussex County 2018 Comprehensive Plan*)

Sussex County Comprehensive Plan:

Per the Sussex County Comprehensive plan, the proposed development is in an area designated as an Agricultural Residential District (AR-1) and the developer does not plan to rezone the land.

Proposed Development’s Compatibility with the Sussex County Comprehensive Plan:

The *Sussex County Comprehensive Plan* indicates that the study area falls in a Low-Density Rural Area. The plan states that in these areas, low-density housing developments with 2 houses per acre are appropriate. Additionally, a portion of the development in these areas is required to be left as open space. The proposed development is a low-density housing development with less than 2 houses per acre, and it includes plans for open space. Therefore, the proposed development is generally consistent with the *Sussex County Comprehensive Plan*.

Trip Generation

The trip generation for the proposed development was determined by using the comparable land use and rates/equations contained in the *Trip Generation, 10th Edition: An ITE Informational Report*, published by the Institute of Transportation Engineers (ITE) for ITE Land Use Code 210 (single-family detached housing). The trip generation was approved by DelDOT during the Preliminary Traffic Operational Analysis (PTOA) review.

Table 1
Turnberry (f.k.a. Unity Branch) Trip Generation

| Land Use | ADT | AM Peak Hour | | | PM Peak Hour | | |
|--|-------|--------------|------|-------|--------------|------|-------|
| | | Enter | Exit | Total | Enter | Exit | Total |
| 195 Single-Family Homes (ITE Code 210) | 1,922 | 36 | 107 | 143 | 122 | 71 | 193 |

Overview of TOA

Intersections examined:

1. Site Entrance / Hollyville Road (Sussex Road 48)
2. Hollyville Road / Zoar Road (Sussex Road 48) / Harmons Hill Road (Sussex Road 302)
3. Hollyville Road / Hurdle Ditch Road (Sussex Road 290)

Conditions examined:

1. Case 1 – 2021 Existing
2. Case 2 – 2027 without Development

3. Case 3 – 2027 with Development

Committed Developments considered:

1. Fairmont (104 single-family detached houses)
2. Woodridge (188 single-family detached houses, 159 unbuilt)
3. Liberty East (121 single-family detached houses, 99 unbuilt)
4. Wetherby (126 single-family detached houses)
5. Independence (a.k.a. Indigo Run) (455 single-family detached houses, 124 unbuilt)

Note: Committed development information provided in the TOA supersedes the information provided in the February 5, 2021 DelDOT Scoping Meeting Memorandum.

Peak hours evaluated: Weekday morning and weekday evening.

Intersection Descriptions

1. Site Entrance / Hollyville Road (Sussex Road 48)

Type of Control: Proposed two-way stop-controlled intersection (T-intersection)

Westbound Approach: (Site Entrance) Proposed one shared left turn/right turn lane.

Northbound Approach: (Hollyville Road) Existing one through lane, proposed one through lane and one right turn lane.

Southbound Approach: (Hollyville Road) Existing one through lane, proposed one left turn lane and one through lane.

2. Hollyville Road / Zoar Road (Sussex Road 48) / Harmons Hill Road (Sussex Road 302)

Type of Control: Existing all-way stop-controlled intersection (four-legged)

Eastbound Approach: (Zoar Road) Existing one shared left turn/through/right turn lane.

Westbound Approach: (Harmons Hill Road) Existing one shared left turn/through/right turn lane.

Northbound Approach: (Hollyville Road) Existing one shared left turn/through/right turn lane.

Southbound Approach: (Hollyville Road) Existing one shared left turn/through/right turn lane.

3. Hollyville Road / Hurdle Ditch Road (Sussex Road 290)

Type of Control: Existing two-way stop-controlled intersection (T-intersection)

Eastbound Approach: (Hurdle Ditch Road) Existing one shared left turn/right turn lane, stop-controlled.

Northbound Approach: (Hollyville Road) Existing one shared left turn/through lane.

Southbound Approach: (Hollyville Road) Existing one shared through/right turn lane.

Transit, Pedestrian, and Bicycle Facilities

Existing transit service: Per DelDOT Gateway, Delaware Transit Corporation (DTC) currently does not provide transit service within the study area.

Planned transit service: Per email correspondence on July 1, 2021 with Mr. Jared Kauffman, Planner for DART, transit improvements are not being requested in the area at this time.

Existing bicycle and pedestrian facilities: According to DelDOT's Sussex County Bicycle Map, a Connector Bicycle Route exists within the study area. The Connector Bicycle Route exists along Hollyville Road, and it traverses through 3 study intersections (Site Entrance, Zoar Road/Harmons Hill Road, and Hurdle Ditch Road).

Planned bicycle and pedestrian facilities: Per email correspondence dated July 1, 2021, from Ms. Linda Osiecki, DelDOT's Pedestrian Coordinator, and email correspondence dated July 2, 2021, from Mr. John Fiori, DelDOT's Bicycle Coordinator, the following improvements were recommended:

- Referring to the State Strategies and Spending Map this site is within Level 4. Per the DelDOT SUP/Sidewalk Policy a non-motorized facility is not required unless the site generates over 2,000-trips or there is an existing facility adjacent to the site. If the facility is required, it would be recommended that a 10-foot wide shared-use path be installed with angled terminations into the shoulder and shared-use path extended to both property lines.
- If the SUP is required, at least one internal connection of a sidewalk or shared use path from the shared-use path along Hollyville Road.
- Per the Development Coordination Manual (DCM) the site shall dedicate right-of-way per the roadway classification and establish a 15' wide permanent easement along the property frontage.
- All entrance, roadway and/or intersection improvements required shall incorporate bicycle and pedestrian facilities. Per the DCM, if the right turn lane is warranted, then a separate bike lane shall be incorporated along the right turn lane.
- Construct frontage SUP with angled terminations and pedestrian access into the site as shown on the plans.
- A bicycle/pedestrian crossing of the Hollyville Road intersection with Zoar Road/Harmons Hill Road should be provided from the proposed SUP along the eastern side of Hollyville Road. The crossing should include marked crosswalks and receiving curb ramps at full SUP width.
- A SUP connection along the southern side of Hollyville Road should be provided between the proposed SUPs for this site and the Fairmont site. If the connection is not provided, marked crosswalks and receiving curb ramps at full SUP width should be provided at the Hollyville Road intersection with Hurdle Ditch Road.

Bicycle Level of Traffic Stress in Delaware: Researchers with the Mineta Transportation Institute developed a framework to measure low-stress connectivity, which can be used to evaluate and guide bicycle network planning. Bicycle LTS analysis uses factors such as the speed of traffic, volume of traffic, and the number of lanes to rate each roadway segment on a scale of 1 to 4, where 1 is a low-stress place to ride and 4 is a high-stress place to ride. It analyzes the total connectivity

of a network to evaluate how many destinations can be accessed using low-stress routes. Developed by planners at the Delaware Department of Transportation (DelDOT), the bicycle Level of Traffic Stress (LTS) model will be applied to bicycle system planning and evaluation throughout the state. The Bicycle LTS for the roadways under existing conditions along the site frontage are summarized below. The Bicycle LTS was determined utilizing the map on the DelDOT Gateway.

- Hollyville Road – LTS: 4

Crash Evaluation

Per the crash data included in the TOA from March 3, 2018 to March 3, 2021 and provided by the Delaware Crash Analysis Reporting System, a total of eight crashes were reported in the area of the Hollyville Road/Hurdle Ditch Road intersection. Of the eight crashes reported, five were single vehicle incidents, two were rear end collisions, and one was a sideswipe crash. Three of the crashes resulted in injuries.

A total of 14 crashes were reported in the area of the Hollyville Road/Zoar Road/Harmons Hill Road intersection. Of the 14 crashes reported, six were single vehicle incidents, five were rear end collisions, one was a front-to-front collision, one was an angle crash, and one was other/unknown. Two of the crashes resulted in injuries and no fatalities were reported within the study area.

Previous Comments

All comments made during the Preliminary TOA (PTOA) were addressed in the Final TOA (FTOA).

General HCS Analysis Comments

(See table footnotes on the following pages for specific comments)

1. JMT and the TOA utilized version 7.9.5 of HCS7.
2. Due to a lack of heavy vehicle count data and per DelDOT's *Development Coordination Manual*, JMT used a heavy vehicle percentage of 3% for each movement greater than 100 vph in all cases, whereas the TOA utilized various heavy vehicle percentages.
3. Per DelDOT's *Development Coordination Manual* and coordination with DelDOT Planning, JMT used a heavy vehicle percentage of 5% for each movement less than 100 vph along roadways. A heavy vehicle percentage of 3% was utilized for movements entering and exiting the proposed site.
4. Per DelDOT's *Development Coordination Manual*, JMT utilized the existing PHF for the Case 1 scenario and a future PHF for Cases 2 and 3 scenarios of 0.80 for roadways with less than 500 vph, 0.88 for roadways between 500 and 1,000 vph, and 0.92 for roadways with more than 1,000 vph or the existing PHF, whichever was higher. The TOA utilized existing PHF for all cases.

Table 2
Peak Hour Levels Of Service (LOS)
Based on Traffic Operational Analysis for Turnberry (f.k.a. Unity Branch)
Report Dated May 28, 2021
Prepared by The Traffic Group, Inc.

| Unsignalized Intersection Two-Way Stop Control (T-intersection) ¹ | LOS per TOA | | LOS per JMT | |
|--|---------------|---------------|---------------|---------------|
| | Weekday AM | Weekday PM | Weekday AM | Weekday PM |
| Site Entrance /Hollyville Road (Sussex Road 48) | | | | |
| 2027 with Development (Case 3) ² | | | | |
| Westbound Site Entrance Approach | B (13.8) | B (12.8) | B (13.0) | B (13.2) |
| Southbound Hollyville Road Left Turn | A (8.1) | A (8.1) | A (8.0) | A (8.1) |

Table 2 (continued)
Peak Hour Levels Of Service (LOS)
Based on Traffic Operational Analysis for Turnberry (f.k.a. Unity Branch)
Report Dated: May 28, 2021
Prepared by The Traffic Group, Inc.

| Roundabout ¹ | LOS per TOA | | LOS per JMT | |
|---|---------------|---------------|---------------|---------------|
| | Weekday AM | Weekday PM | Weekday AM | Weekday PM |
| Site Entrance /Hollyville Road (Sussex Road 48) ³ | | | | |
| 2027 with Development (Case 3) | | | | |
| Westbound Site Entrance Approach | - | - | A (4.9) | A (4.1) |
| Northbound Hollyville Road Approach | - | - | A (4.9) | A (5.1) |
| Southbound Hollyville Road Approach | - | - | A (4.6) | A (5.3) |
| Overall | - | - | A (4.8) | A (5.1) |

¹ For signalized and unsignalized analysis, the numbers in parentheses following levels of service are average delay per vehicle, measured in seconds.

² The TOA utilized a PHF of 0.80 during the AM peak hour, whereas JMT utilized a PHF of 0.88 per DelDOT's *Development Coordination Manual*.

³ Per request from DelDOT, JMT performed an additional analysis of the intersection as a single lane roundabout.

Table 3
Peak Hour Levels Of Service (LOS)
Based on Traffic Operational Analysis for Turnberry (f.k.a. Unity Branch)
Report Dated: May 28, 2021
Prepared by The Traffic Group, Inc.

| Unsignalized Intersection All-Way Stop Control ¹ | LOS per TOA | | LOS per JMT | |
|---|---------------|---------------|---------------|---------------|
| | Weekday AM | Weekday PM | Weekday AM | Weekday PM |
| Hollyville Road/Zoar Road (Sussex Road 48)/Harmons Hill Road (Sussex Road 302) | | | | |
| 2021 Existing (Case 1) | | | | |
| Eastbound Zoar Road Approach | B (10.4) | B (10.1) | B (10.4) | B (10.2) |
| Westbound Harmons Hill Road Approach | A (9.3) | A (8.7) | A (9.4) | A (8.8) |
| Northbound Hollyville Road Approach | A (9.6) | A (8.9) | A (9.7) | A (9.0) |
| Southbound Hollyville Road Approach | A (9.9) | A (9.3) | A (9.9) | A (9.3) |
| Overall | A (9.9) | A (9.5) | A (9.9) | A (9.5) |
| 2027 without Development (Case 2) | | | | |
| Eastbound Zoar Road Approach | B (12.8) | B (13.7) | B (12.1) | B (13.8) |
| Westbound Harmons Hill Road Approach | B (12.0) | B (10.5) | B (11.5) | B (10.7) |
| Northbound Hollyville Road Approach | B (11.9) | B (11.1) | B (11.3) | B (11.2) |
| Southbound Hollyville Road Approach | B (13.3) | B (12.1) | B (12.4) | B (12.2) |
| Overall | B (12.6) | B (12.2) | B (11.9) | B (12.3) |

Table 3 (continued)
Peak Hour Levels Of Service (LOS)
Based on Traffic Operational Analysis for Turnberry (f.k.a. Unity Branch)
Report Dated: May 28, 2021
Prepared by The Traffic Group, Inc.

| Unsignalized Intersection All-Way Stop Control ¹ | LOS per TOA | | LOS per JMT | |
|--|---------------|---------------|---------------|---------------|
| | Weekday AM | Weekday PM | Weekday AM | Weekday PM |
| Hollyville Road/Zoar Road (Sussex Road 48)/Harmon Hill Road (Sussex Road 302) | | | | |
| 2027 with Development (Case 3) | | | | |
| Eastbound Zoar Road Approach | B (13.7) | C (15.5) | B (12.9) | C (15.7) |
| Westbound Harmons Hill Road Approach | B (12.6) | B (11.2) | B (12.1) | B (11.3) |
| Northbound Hollyville Road Approach | B (12.7) | B (12.4) | B (12.0) | B (12.6) |
| Southbound Hollyville Road Approach | C (15.8) | B (13.7) | B (14.3) | C (13.8) |
| Overall | B (14.0) | B (13.7) | B (13.0) | B (13.8) |

Table 3 (continued)
Peak Hour Levels Of Service (LOS)
Based on Traffic Operational Analysis for Turnberry (f.k.a. Unity Branch)
Report Dated: May 28, 2021
Prepared by The Traffic Group, Inc.

| Roundabout ¹ | LOS per TOA | | LOS per JMT | |
|--|-------------|------------|-------------|------------|
| | Weekday AM | Weekday PM | Weekday AM | Weekday PM |
| Hollyville Road/Zoar Road (Sussex Road 48)/Harmon Hill Road (Sussex Road 302)⁴ | | | | |
| 2027 with Development (Case 3) | | | | |
| Eastbound Zoar Road Approach | | | A (5.8) | A (6.6) |
| Westbound Harmons Hill Road Approach | - | - | A (5.8) | A (5.3) |
| Northbound Hollyville Road Approach | - | - | A (5.4) | A (6.3) |
| Southbound Hollyville Road Approach | - | - | A (6.4) | A (5.7) |
| Overall | - | - | A (5.9) | A (6.0) |

⁴ JMT performed an additional analysis of the intersection as a single lane roundabout.

Table 4
Peak Hour Levels Of Service (LOS)
Based on Traffic Operational Analysis for Turnberry (f.k.a. Unity Branch)
Report Dated: May 28, 2021
Prepared by The Traffic Group, Inc.

| Unsignalized Intersection Two-way Stop Control (T-Intersection) ^{1,5} | LOS per TOA | | LOS per JMT | |
|--|---------------|---------------|---------------|---------------|
| | Weekday AM | Weekday PM | Weekday AM | Weekday PM |
| Hollyville Road /Hurdle Ditch Road (Sussex Road 290) | | | | |
| 2021 Existing (Case 1) | | | | |
| Northbound Hollyville Road Left Turn | A (7.6) | A (7.7) | A (7.6) | A (7.8) |
| Eastbound Hurdle Ditch Road Approach | A (9.7) | A (9.9) | A (9.7) | A (9.9) |
| | | | | |
| 2027 without Development (Case 2) | | | | |
| Northbound Hollyville Road Left Turn | A (7.8) | A (8.0) | A (7.8) | A (7.9) |
| Eastbound Hurdle Ditch Road Approach | B (10.3) | B (11.5) | B (10.3) | B (11.1) |
| | | | | |
| 2027 with Development (Case 3) | | | | |
| Northbound Hollyville Road Left Turn | A (7.8) | A (8.1) | A (7.9) | A (8.1) |
| Eastbound Hurdle Ditch Road Approach | B (10.6) | B (11.8) | B (10.7) | B (11.9) |

⁵ Due to a lack of recent count data and per DelDOT's *Development Coordination Manual*, both the TOA and the TIS utilized a PHF for all cases of 0.80 for roadways with less than 500 vph, 0.88 for roadways between 500 and 1,000 vph, and 0.92 for roadways with more than 1,000 vph.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 9th, 2021

Application: CU 2279 Ron Sutton (Winward Village)

Applicant: Ron Sutton
55 W. Main St
Middletown, DE 19709

Owner: Christopher Land, LLC
10461 White Granite Drive Suite 250
Oakton, VA 22124

Site Location: Lying on the east side of Kent Ave. (S.C.R 361) approximately 0.66
mile south of Garfield Parkway. (Route 26)

Current Zoning: Medium Density (MR) Zoning District

Proposed Use: Multi-Family (11 Units)

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Bethany Beach Fire Department

Sewer: Artesian

Water: Sussex County

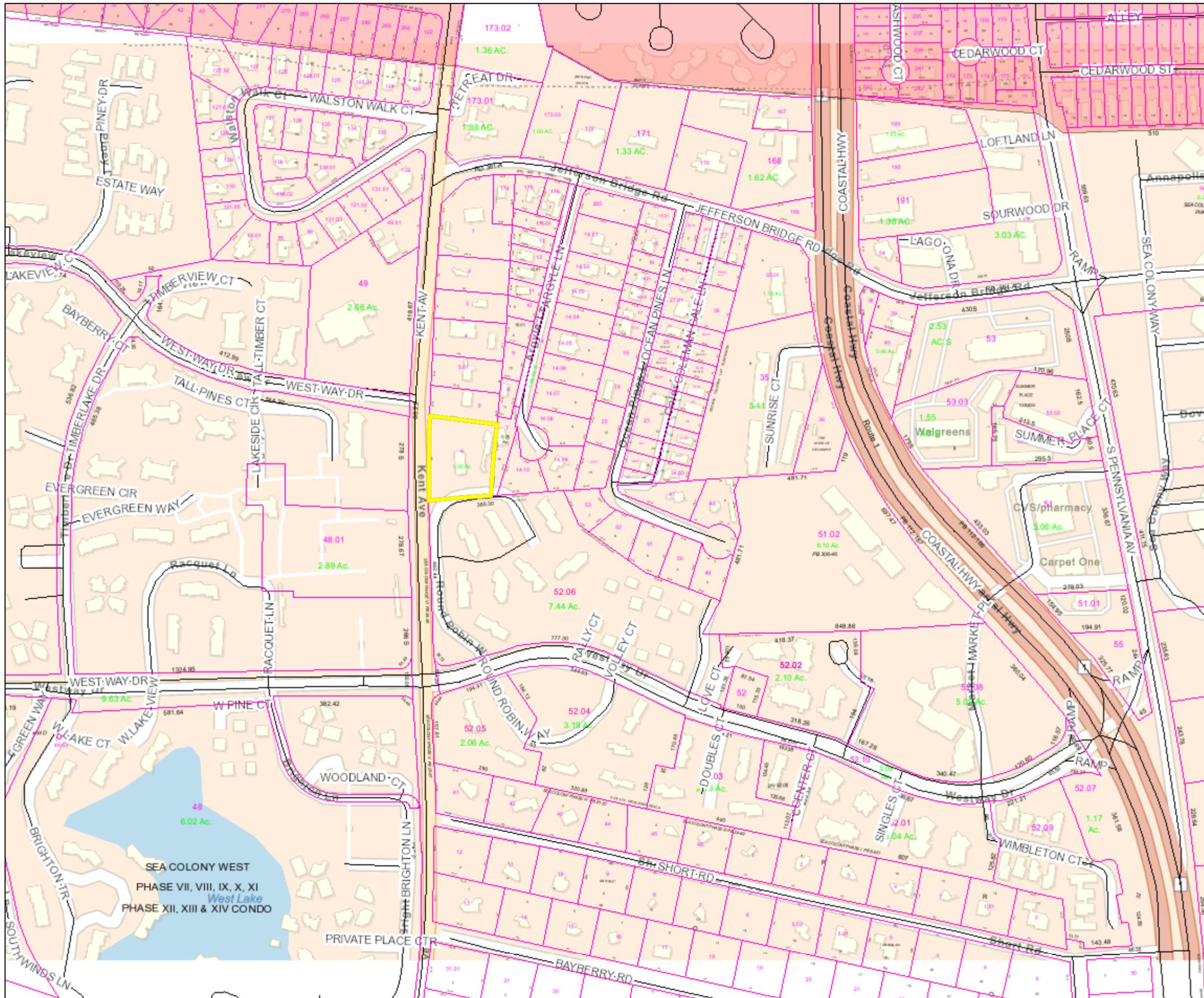
Site Area: 1.035 acres +/-

Tax Map ID.: 134-17.11-6.00





Sussex County



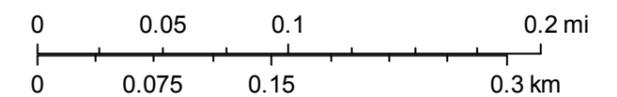
| | |
|------------------------|--------------------|
| PIN: | 134-17.11-6.00 |
| Owner Name | MERGARD LLC |
| Book | 4432 |
| Mailing Address | 33309 KENT AVE |
| City | BETHANY BEACH |
| State | DE |
| Description | E/RD BETHANY BH TO |
| Description 2 | JEFFERSON BRIDGE |
| Description 3 | N/A |
| Land Code | |

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 - Override 1
- polygonLayer**

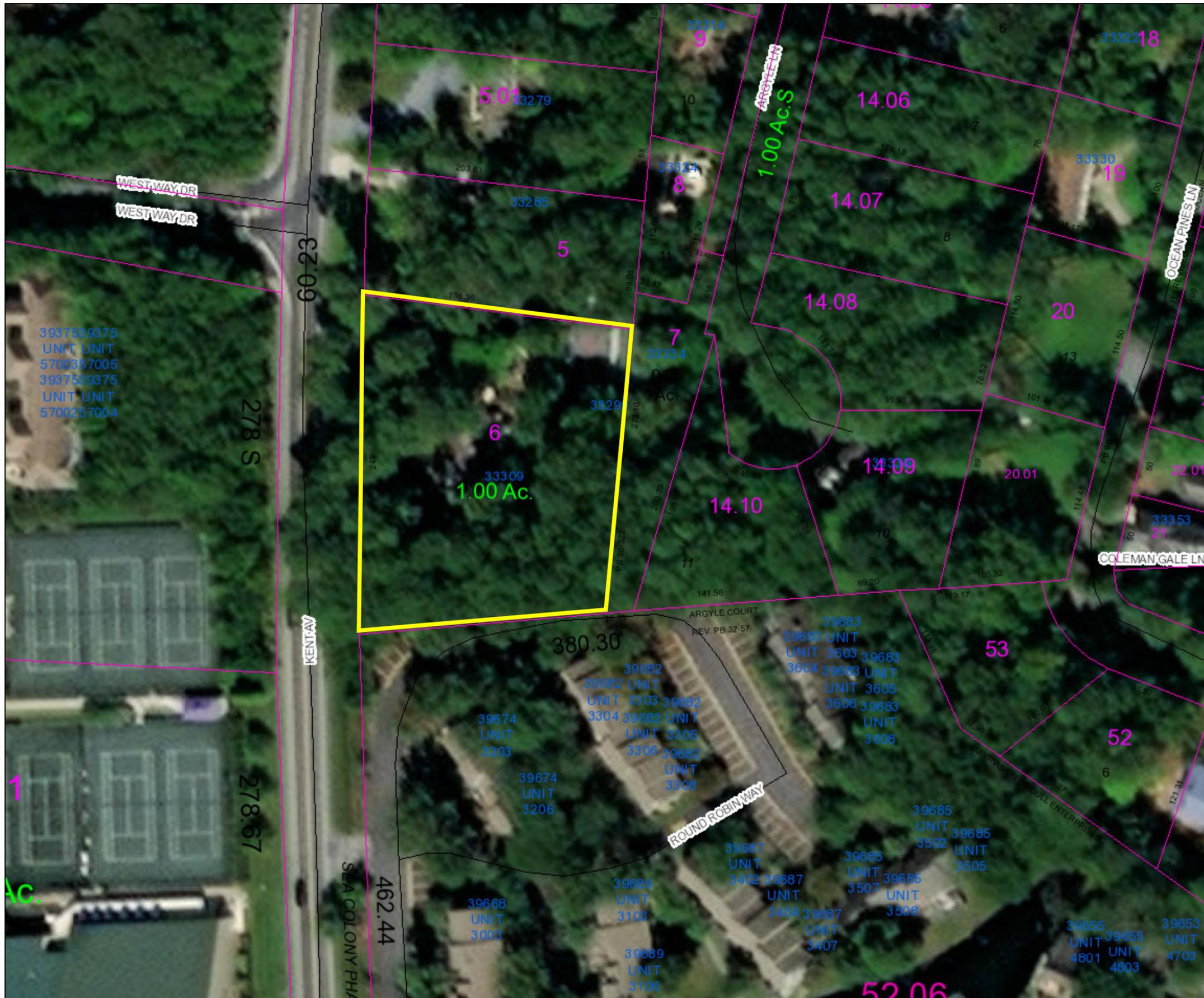
 - Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries

1:4,514



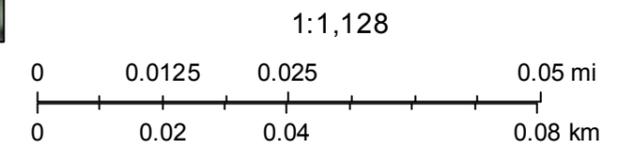


Sussex County



| | |
|------------------------|--------------------|
| PIN: | 134-17.11-6.00 |
| Owner Name | MERGARD LLC |
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| Mailing Address | 33309 KENT AVE |
| City | BETHANY BEACH |
| State | DE |
| Description | E/RD BETHANY BH TO |
| Description 2 | JEFFERSON BRIDGE |
| Description 3 | N/A |
| Land Code | |

- polygonLayer**
Override 1
- polygonLayer**
Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Municipal Boundaries



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

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sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: December 2, 2021
RE: Staff Analysis for CU 2279 Ron Sutton

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2279 Ron Sutton to be reviewed during the December 9, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 134-17.11-6.00 to allow for multi-family condominiums. The parcel is lying on the east side of Kent Avenue (S.C.R. 361), approximately 0.66 mile south of Garfield Parkway (Route 26). The parcel consists of 1.035 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the parcel has a designation of "Coastal Area". The surrounding and adjacent parcels to the north, south, west and east also contain the "Coastal Area" land use designation.

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhomes, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed.

The subject property is zoned Medium Residential (MR). The adjacent properties to the north and east of the subject site are also zoned Medium Residential (MR). The adjacent properties to the south and across Kent Avenue are zoned High Density Residential (HR-1). Properties further east are zoned General Commercial (C-1) Zoning District.

Since 2011, there has been one (1) Conditional Use application within a 1-mile radius of the application site. Conditional Use No. 2222 was approved by the Sussex County Council on Tuesday, June 9, 2020, through Ordinance No. 2713, to allow for a mini golf course.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use for multi-family condominiums, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



File #: CU2279
202105288

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use
Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

33309 Kent Ave Bethany Beach, DE 19930

Type of Conditional Use Requested:

MULTI-FAMILY CONDOMINIUMS

Tax Map #: 134-17.11-6.00 Size of Parcel(s): 1.035 Ac

Current Zoning: MR Proposed Zoning: MR Size of Building: N/A

Land Use Classification: RESIDENTIAL

Water Provider: ARTESIAN WATER CO Sewer Provider: SUSSEX COUNTY

Applicant Information

Applicant Name: RON SUTTON
Applicant Address: 55 W. MAIN STREET
City: MIDDLETOWN State: DE Zip Code: 19709
Phone #: (302) 574-2444 E-mail: RON@CEA-DE.COM

Owner Information

Owner Name: CHRISTOPHER LAND, LLC
Owner Address: 10461 WHITE GRANITE DRIVE, SUITE 250
City: OAKTON State: VA Zip Code: 22124
Phone #: _____ E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: SAME AS APPLICANT
Agent/Attorney/Engineer Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

Completed Application

Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description

Provide Fee \$500.00

Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

DeIDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 3-24-21

Signature of Owner



Date: 3-23-21

For office use only:

Date Submitted: 4/8/2021

Fee: \$500.00 Check #: 2823

Staff accepting application: NAT

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

March 24, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Civil Engineering Associates** proposed land use application, which we received on February 12, 2021. This application is for an approximately 1.00- acre parcel (Tax Parcel: 134-17.11-6.00). The subject land is located east of Kent Avenue (Sussex Road 361). The subject land is currently zoned MR (Medium-Density Residential) and the applicant seeks a conditional use approval to build 11 Condominiums.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Kent Avenue (Sussex Road 361), from Westway Drive to Atlantic Avenue (Sussex Road 26), is 3,903 vehicles per day.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DelDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse
Page 2 of 2
March 24, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff

Enclosure

cc: Civil Engineering Associates, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

PLANNING & ZONING
Jamie Whitehouse, AICP, MRTPI
Director
(302) 855-7878 T
(302) 854-5079 F



Sussex County
DELAWARE
sussexcountyde.gov

Service Level Evaluation Request Form

This form **shall** be submitted to the Planning and Zoning Office and a response **shall** be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: 2/12/21

Site Information:

Site Address/Location: 33309 Kent Ave Bethany Beach, DE 19930

Tax Parcel Number: 134-17.11-6.00

Current Zoning: MR

Proposed Zoning: MR

Land Use Classification: Residential

Proposed Use(s): Multifamily residential - condominiums
(Conditional Use)

Square footage of any proposed buildings or number of units: 11

Applicant Information:

Applicant's Name: Civil Engineering Associates

Applicant's Address: 55 W. Main Street

City: Middletown State: DE Zip Code: 19709

Applicant's Phone Number: (302) 584-6632

Applicant's e-mail address: sroberts@cea-de.com



**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CU 2279 Ron Sutton (Winward Village)**

APPLICANT: **Ron Sutton**

FILE NO: **OM-3.07**

TAX MAP &
PARCEL(S): **134-17.11-6.00**

LOCATION: **Lying on the east side of Kent Ave. (SCR 361), approximately
0.66 mile south of Garfield Parkway.**

NO. OF UNITS: **Multi-Family (11 units)**

GROSS
ACREAGE: **1.035**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

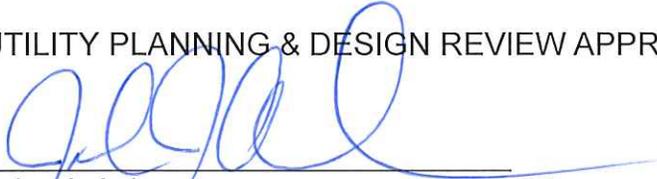
SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 1**
- (3). Is wastewater capacity available for the project? **Yes** If not, what capacity is available? **N/A.**
- (4). Is a Construction Agreement required? **Yes** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **There are currently 4.67 EDU's being billed on the parcel. If those are disconnected as part of the project that would result in a 4.67 EDU credit..** Is it likely that additional SCCs will be required? **Yes**

If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Denise Burns** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **N/A**
- (8). Comments: **The parcel is currently served with one 6-inch lateral, and at a minimum, will need to be upgraded to an 8-inch lateral.**
- (9). Is a Sewer System Concept Evaluation required? **Yes, Contact Utility Planning at 302-855-1299 to apply**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Yes**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Denise Burns

WINDWARD VILLAGE

DESIGN SUMMARY & SUPPLEMENTAL DATA

CONDITIONAL USE APPLICATION CU-2279

Proposed MR – Multifamily Dwelling Structures

Tax Parcel 1-34-17.00-6.00

BALTIMORE HUNDRED
SUSSEX COUNTY
DELAWARE



FOR:



PREPARED BY:



CIVIL ENGINEERING ASSOCIATES, LLC

55 W. Main Street
Middletown, DE 19709
(302) 376-8833

TABLE OF CONTENTS

- A. **CONDITIONAL USE APPLICATION FORM**
- B. **PROPERTY SURVEY & DEED**
- C. **PRELIMINARY PLANS**
- D. **SUSSEX COUNTY CODE DESIGN CONSIDERATIONS (SECTION 99-9 C.)**
- E. **ENVIRONMENTAL ASSESSMENT & PUBLIC FACILITY EVALUATION REPORT**
- F. **DELDOT SERVICE LEVEL EVALUATION REQUEST FORM/DELDOT RESPONSE**
- G. **ZONING & COMPREHENSIVE PLAN CONTEXT & MAPPING**
- H. **SUSSEX COUNTY SSCE COMPLETED FORM**

APPENDIX A

CONDITIONAL USE APPLICATION FORM

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

33309 Kent Ave Bethany Beach, DE 19930

Type of Conditional Use Requested:

MULTI-FAMILY CONDOMINIUMS

Tax Map #: 134-17-116.0

Size of Parcel(s): 1.035 Ac

Current Zoning: MR

Proposed Zoning: MR

Size of Building: N/A

Land Use Classification: RESIDENTIAL

Water Provider: ARTESIAN WATER CO

Sewer Provider: SUSSEX COUNTY

Applicant Information

Applicant Name: RON SUTTON

Applicant Address: 55 W. MAIN STREET

City: MIDDLETOWN

State: DE

Zip Code: 19709

Phone #: (302) 574-2444

E-mail: RON@CEA-DE.COM

Owner Information

Owner Name: CHRISTOPHER LAND, LLC

Owner Address: 10461 WHITE GRANITE DRIVE, SUITE 250

City: OAKTON

State: VA

Zip Code: 22124

Phone #:

E-mail:

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: SAME AS APPLICANT

Agent/Attorney/Engineer Address:

City:

State:

Zip Code:

Phone #:

E-mail:



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- Completed Application**
- Provide eight (8) copies of the Site Plan or Survey of the property**
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- Provide Fee \$500.00**
- Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- DeIDOT Service Level Evaluation Request Response**
- PLUS Response Letter** (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 3-24-21

Signature of Owner



Date: 3-23-21

For office use only:

Date Submitted: _____ Fee: \$500.00 Check #: _____
Staff accepting application: _____ Application & Case #: _____
Location of property: _____

Subdivision: _____
Date of PC Hearing: _____ Recommendation of PC Commission: _____
Date of CC Hearing: _____ Decision of CC: _____

APPENDIX B

PROPERTY SURVEY & DEED

1-34-17.11-6.00
Prepared By/Return To:
The Lawson Firm, LLC
402 Rehoboth Avenue, P.O. Box 739
Rehoboth Beach, DE 19971

RECEIVED
AUG 13, 2015
ASSESSMENT DIVISION
OF SUSSEX COUNTY

THIS QUITCLAIM DEED, made this 5th day of August, 2015

- BETWEEN -

REVERE HIGH YIELD FUND, LP, a Delaware limited partnership, of 105 Rowayton Avenue, Suite 100, Rowayton, Connecticut 06853, party of the first part

- AND -

MERGARD, L.L.C., a Delaware limited liability company, of P.O. Box 730, Bethany Beach, Delaware, party of the second part.

WITNESSETH, that the said party of the first part, without consideration, hereby remises, quitclaims and releases unto the party of the second part, its successors and/or assigns, in fee simple,

33309 Kent Avenue, Bethany Beach, Sussex County, State of Delaware, identified as Tax ID: 1-34-17.11-6.00, more particularly described as follows, to wit:

ALL that certain lot, piece or parcel of land situate, lying and being in Baltimore Hundred, Sussex County, Delaware, lying on the east side of the County Road leading from Bethany Beach to Jefferson's Bridge and described as follows, to wit:

BEGINNING on the east side of the said County Road, thence, with lands now or formerly of George W. Bunting to lands now or formerly of John G. Bunting; thence, in a southerly direction with the east line of lands now or formerly of George W. Bunting to lands now or formerly of Louis L. Drexler, known as Farlow tract, thence, with said Drexler's tract to east side of County Road; thence, with the same having a frontage of about 249 feet to the place of beginning. Containing one acre of land, be the same more or less, with all improvements thereon.

BEING the same lands and premises conveyed unto Revere High Yield Fund, LP, by deed of MerGard, L.L.C., dated December 17, 2014, and recorded on June 25, 2015, in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 4412, Page 305.

SUBJECT to any restrictions, reservations, easements, covenants, agreements, etc. of record.

Consideration: .00

1

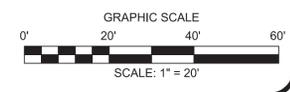
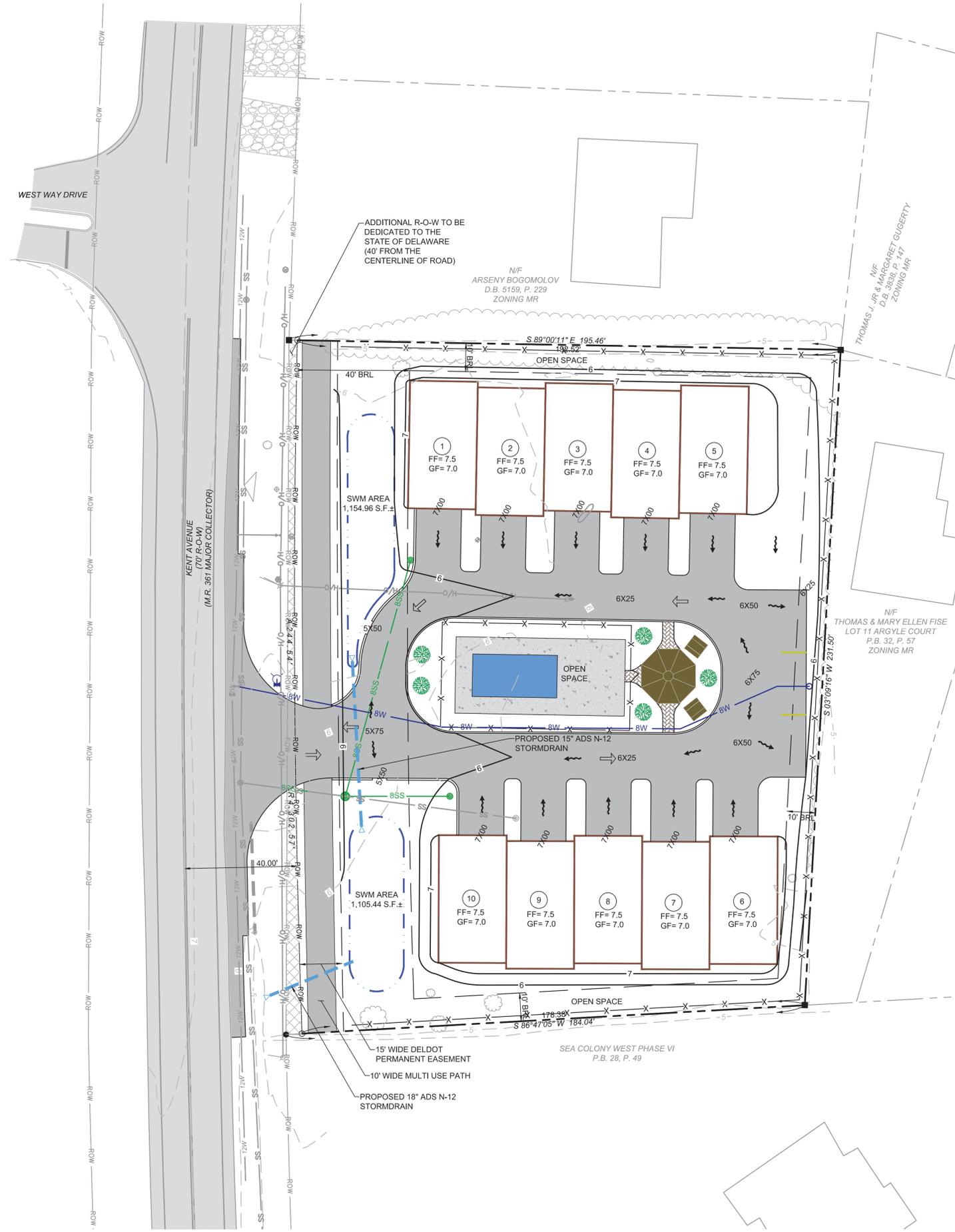
| | |
|------------------------------|-----|
| ----- | |
| County | .00 |
| State | .00 |
| Town Total | .00 |
| Received: Sue D Aug 13, 2015 | |

TC

AS

APPENDIX C

PRELIMINARY PLANS



GRADING PLAN
FOR
WINDWARD VILLAGE
BALTIMORE HUNDRED
SUSSEX COUNTY, DELAWARE

CFA CIVIL ENGINEERING ASSOCIATES, LLC
• ENGINEERING • SURVEYING • CONSTRUCTION SERVICES

55 W. MAIN STREET
MIDDLETOWN, DE 19709
WWW.CEA-DE.COM

PHONE (302) 376-8833
FAX (302) 376-8834

| REVISION | DATE | DESCRIPTION |
|----------|------|-------------|
| | | |
| | | |
| | | |
| | | |

DATE: DECEMBER 2, 2021
DESIGNED BY: JTW APPROVED BY: RHS
FILE:
SHEET NO.: **G-1**

DATE

APPENDIX D

SUSSEX COUNTY DESIGN CONSIDERATIONS (SECTION 99.9 C.)

**SUSSEX COUNTY
DESIGN CONSIDERATIONS
(SECTION 99-9 C.)**

INTEGRATION OF THE PROPOSED SUBDIVISION INTO EXISTING TERRAIN AND SURROUNDING LANDSCAPE

The proposed project is a redevelopment of an existing bed & breakfast/motel and will consist of 10 condominiums. The property is surrounded by existing landscaping/woods that will be maintained. Sufficient landscaping will be installed to supplement the surrounding woods.

MINIMAL USE OF WETLANDS AND FLOODPLAINS

There are no wetlands existing on site.

PRESERVATION OF NATURAL AND HISTORICAL FEATURES

As stated, this is a redevelopment of an existing motel. There are no existing natural or historical features.

PRESERVATION OF OPEN SPACE AND SCENIC VIEWS

Because this is a redevelopment surrounded by other development as well as fairly dense vegetation, there are no scenic views from the property. Proposed open space will exceed the 30% requirement.

MINIMIZATION OF TREE, VEGETATION AND SOIL REMOVAL AND GRADE CHANGES

The existing motel and associated access roads will be removed. Care will be taken to preserve as many of the large trees surrounding the property as well as any vegetation not impinging on the development. Proposed grades will closely match existing to tie-into the surrounding developed areas.

SCREENING OF OBJECTIONABLE FEATURES FROM NEIGHBORING PROPERTIES AND ROADWAYS

As stated above, the property is surrounded by existing woods which will be maintained and supplemented with additional landscaping. In addition, there will be an 8-foot privacy fence surrounding the property.

PROVISION FOR WATER SUPPLY

Water will be provided by Tidewater Utilities.

PROVISION FOR SEWAGE DISPOSAL

Sanitary sewer will be provided by Sussex County.

PREVENTION OF POLLUTION OF SURFACE AND GROUNDWATER

Surface and groundwater pollution will be prevented with the onsite stormwater management system. All surface runoff will be conveyed into the 2 stormwater facilities along Kent Avenue. All stormwater design will be reviewed and approved by Sussex Conservation District.

MINIMIZATION OF EROSION AND SEDIMENTATION, MINIMIZATION OF CHANGES IN GROUNDWATER LEVELS, MINIMIZATION OF INCREASED RATES OF RUNOFF, MINIMIZATION OF POTENTIAL FOR FLOODING AND DESIGN OF DRAINAGE SO THAT GROUNDWATER RECHARGE IS MAXIMIZED

Surface and groundwater pollution will be prevented with the onsite stormwater management system. All surface runoff will be conveyed into the 2 stormwater facilities along Kent Avenue. All stormwater design will be reviewed and approved by Sussex Conservation District.

PROVISION FOR SAFE VEHICULAR AND PEDESTRIAN MOVEMENT WITHIN THE SITE AND TO ADJACENT WAYS

The proposed layout of the road consists of a 16-foot wide one-way travel lane around

an internal amenity area with access to each individual condominium unit. A shared use path is proposed along the frontage of the property to allow for pedestrian movement.

EFFECT ON AREA PROPERTY VALUES

We anticipate that property values in the surrounding area will increase due to this project.

PRESERVATION AND CONSERVATION OF FARMLAND

As stated before, a bed & breakfast/motel currently occupies this property, there is no existing farmland to be preserved.

EFFECT ON SCHOOLS, PUBLIC BUILDINGS AND COMMUNITY FACILITIES

No negative impact to the surrounding school, public buildings, or community is expected due to proposed development.

EFFECT ON AREA ROADWAYS AND PUBLIC TRANSPORTATION

We do not anticipate any negative impacts to the roadways or public transportation. The existing bed & breakfast/motel consists of 14 rooms and an office generating approximately 25 trips per day. The proposed project will produce an additional 28 trips per day for a total ADT of 53. No auxiliary lanes are required by DelDOT as the existing ADT of Kent Avenue is 3,103 trips.

COMPATIBILITY WITH OTHER AREA LAND USES

The surrounding land uses consists of residential homes (both seasonal and off-season). We are proposing a residential use to replace the existing bed and breakfast/motel which is compatible with the surrounding areas.

EFFECT ON AREA WATERWAYS

We do not anticipate any effects on area waterways due to the re-development.

APPENDIX E

ENVIRONMENTAL ASSESSMENT & PUBLIC FACILITY EVALUATION REPORT

ENVIRONMENTAL ASSESSMENT
&
PUBLIC FACILITY EVALUATION
REPORT

FOR

WINDWARD VILLAGE

**BALTIMORE HUNDRED
SUSSEX COUNTY
DELAWARE**

PREPARED BY:



CIVIL ENGINEERING ASSOCIATES, LLC

55 West Main Street
Middletown, DE 19709
(302) 376-8833

DATE:
December 2021

Seal

TABLE OF CONTENTS

A. EXECUTIVE SUMMARY

- Introduction.....1
- Scope of Project.....1

B. ENGINEER'S REPORT

- General Overview.....2
- Drainage and Stormwater Runoff.....2
- Potable Water.....2
- Wastewater Treatment and Disposal.....2
- Impacts to Surrounding Roadways.....2
- Endangered or Threatened Species.....2
- Preservation and Protection of Tidal and Non-Tidal Wetlands.....3
- Open Space and Buffers.....3
- Proposed Public and Private Infrastructure.....3
- Economic & Recreational Benefits.....3
- Historic or Cultural Resources.....3
- Affirmation of Conformance with Sussex County Comprehensive Plan.....3
- Actions Taken to Mitigate Proposed Impacts of the Development.....3

A. EXECUTIVE SUMMARY

Introduction

This Report has been prepared in accordance with Chapter 115 – Zoning: Article XXV Supplementary Regulations, 194.3 Coastal Area of the Sussex County Code. This Report provides a summary of site-specific information and accompanies the Preliminary Plans submittal, dated February 3, 2021.

Scope of Project:

The proposed project will include ten (10) condominiums on the property currently known as the Meris Gardens Bed and Breakfast located on Kent Avenue in Bethany Beach, Delaware. The existing zoning designation is MR.

The project will involve typical construction activities associated with new roads, stormwater management facilities, home construction, and utility installation. The utilities for the site will consist of electric, telecommunications, sewer, and water services to each home. Stormwater management for the site will be provided by two (2) stormwater management areas.

B. ENGINEER'S REPORT

Drainage and Stormwater Runoff

Stormwater quality will be met by managing the Resource Protection Event (RPv) and quantity management will be met by managing the Conveyance Event and the Flooding Event (Cv and Fv) this will be achieved through the proposed stormwater management area and will be denoted on the plans as Stormwater Management Area. It will discharge into an existing ditch that is in good working condition.

The runoff from the areas that are being developed will be collected and directed to the proposed stormwater management areas by downspouts or by grass lined swales.

Potable Water

A water connection to Tidewater Utilities facilities is anticipated along Kent Avenue. During the Sussex County approval process, Water Plans will be submitted to Tidewater Utilities for approval as well. Once the Tidewater Utilities approves the connection, both domestic and fire flows will be provided.

No private wells are expected to be impacted.

Wastewater Treatment and Disposal

The proposed site lies within the South Bethany Sanitary Sewer District, it is anticipated to connect and be served by an existing gravity sewer line situated along Kent Avenue. Ordinance No. 38 Plans will be submitted to the County for approval.

No impacts to the surrounding surface or groundwaters are expected.

Impacts to Surrounding Roadways

The Windward Garden development is proposed to contain 10 condominium units. Based upon the latest Institute of Transportation Engineers Traffic Generation Manual, a condominium (multifamily midrise) is anticipated to generate approximately 5.44 vehicle trips per day (1/2 entering the site, 1/2 leaving the site), and the site is anticipated to generate approximately 53 vehicle trips per day (27 entering, 26 leaving).

Based upon the 2020 DeIDOT Traffic Counts, Kent Avenue currently carries 3,103 average annual daily vehicles. Therefore, it is anticipated that the Windward Village development will not cause any adverse impacts to the surrounding road network.

Endangered or Threatened Species

Based upon a review of the site, existence of any endangered or threatened species is not expected.

Preservation and Protection of Tidal and Non-Tidal Wetlands

Based on site evaluations and a review of the National Inventory Mapping it has been determined that no wetlands exist on this site.

Open Space and Buffers

The total area of the site is 1.035 acres. Proposed open space will be comprised of approximately 0.397 acres, or 38.4% which fulfills the required minimum open space of 30%.

A forested buffer is not proposed nor is required for this project; however, sufficient landscaping will be installed to supplement the existing woods surrounding the property.

Proposed Public and Private Infrastructure

This is a redevelopment of an existing project. Public infrastructure exists on site and impacts to surrounding areas will be minimal

Economic & Recreational Benefits

The proposed project is anticipated to provide several economic benefits. These benefits include:

- Anticipated increase the tax base of Sussex County
- Increase to surrounding home values

The proposed project is a private condominium complex and will provide recreational benefits to the private condominium owners.

Historic and Cultural Resources

There is no presence of any historic or cultural resources listed on the National register of Historic Places at the site.

Affirmation of Conformance with Sussex County Comprehensive Plan

The proposed development has been designed in accordance to the current Sussex County Comprehensive Plan.

Actions Taken to Mitigate Proposed Impacts of the Development

No negative impact to the environment and its surrounding community is projected to originate from the proposed development.

APPENDIX F

DELDOT SERVICE LEVEL EVALUATION REQUEST FORM/DELDOT RESPONSE

PLANNING & ZONING
Jamie Whitehouse, AICP, MRTPI
Director
(302) 855-7878 T
(302) 854-5079 F



Sussex County
DELAWARE
sussexcountyde.gov

Service Level Evaluation Request Form

This form **shall** be submitted to the Planning and Zoning Office and a response **shall** be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date:

Site Information:

Site Address/Location:

Tax Parcel Number:

Current Zoning:

Proposed Zoning:

Land Use Classification:

Proposed Use(s):

Square footage of any proposed buildings or number of units:

Applicant Information:

Applicant's Name:

Applicant's Address:

City:

State:

Zip Code:

Applicant's Phone Number:

Applicant's e-mail address:





STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

March 24, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Civil Engineering Associates** proposed land use application, which we received on February 12, 2021. This application is for an approximately 1.00- acre parcel (Tax Parcel: 134-17.11-6.00). The subject land is located east of Kent Avenue (Sussex Road 361). The subject land is currently zoned MR (Medium-Density Residential) and the applicant seeks a conditional use approval to build 11 Condominiums.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Kent Avenue (Sussex Road 361), from Westway Drive to Atlantic Avenue (Sussex Road 26), is 3,903 vehicles per day.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DelDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse

Page 2 of 2

March 24, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff

Enclosure

cc: Civil Engineering Associates, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

APPENDIX G

ZONING & COMPREHENSIVE PLAN CONTEXT & MAPPING

Figure 4.5-1 Sussex County 2045 Future Land Use

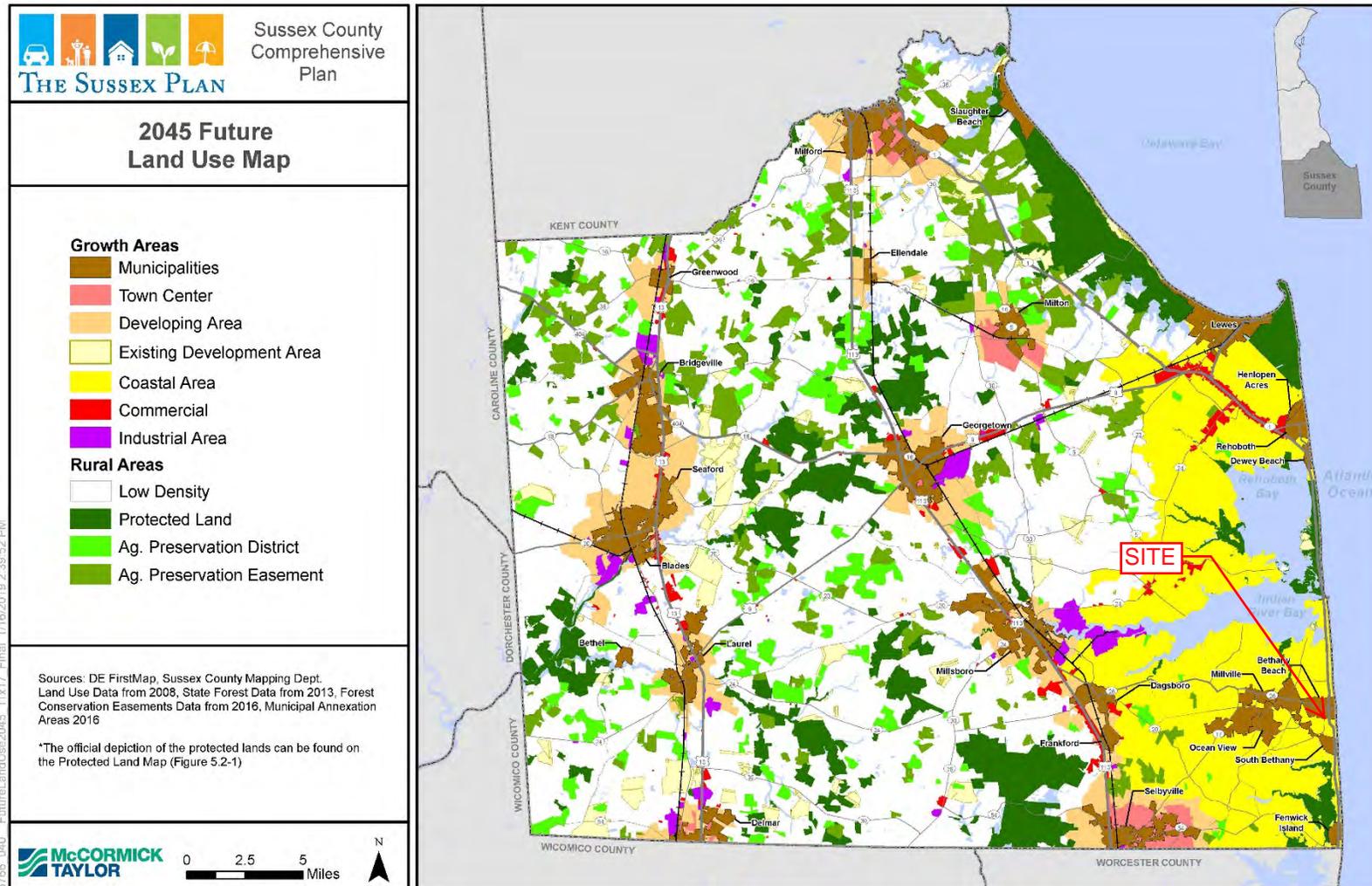


Figure 4.4-1 Strategies for State Policies and Spending

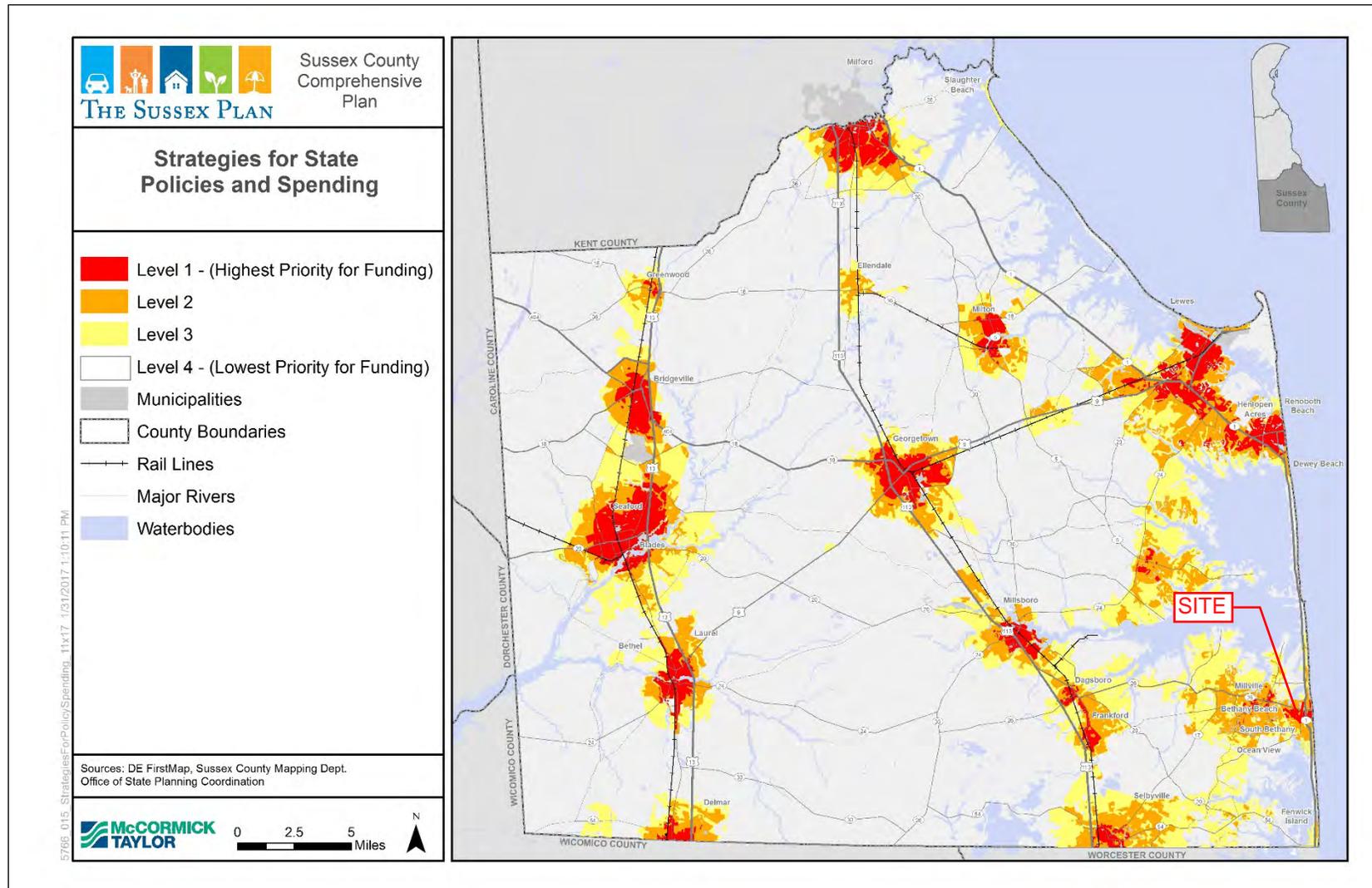
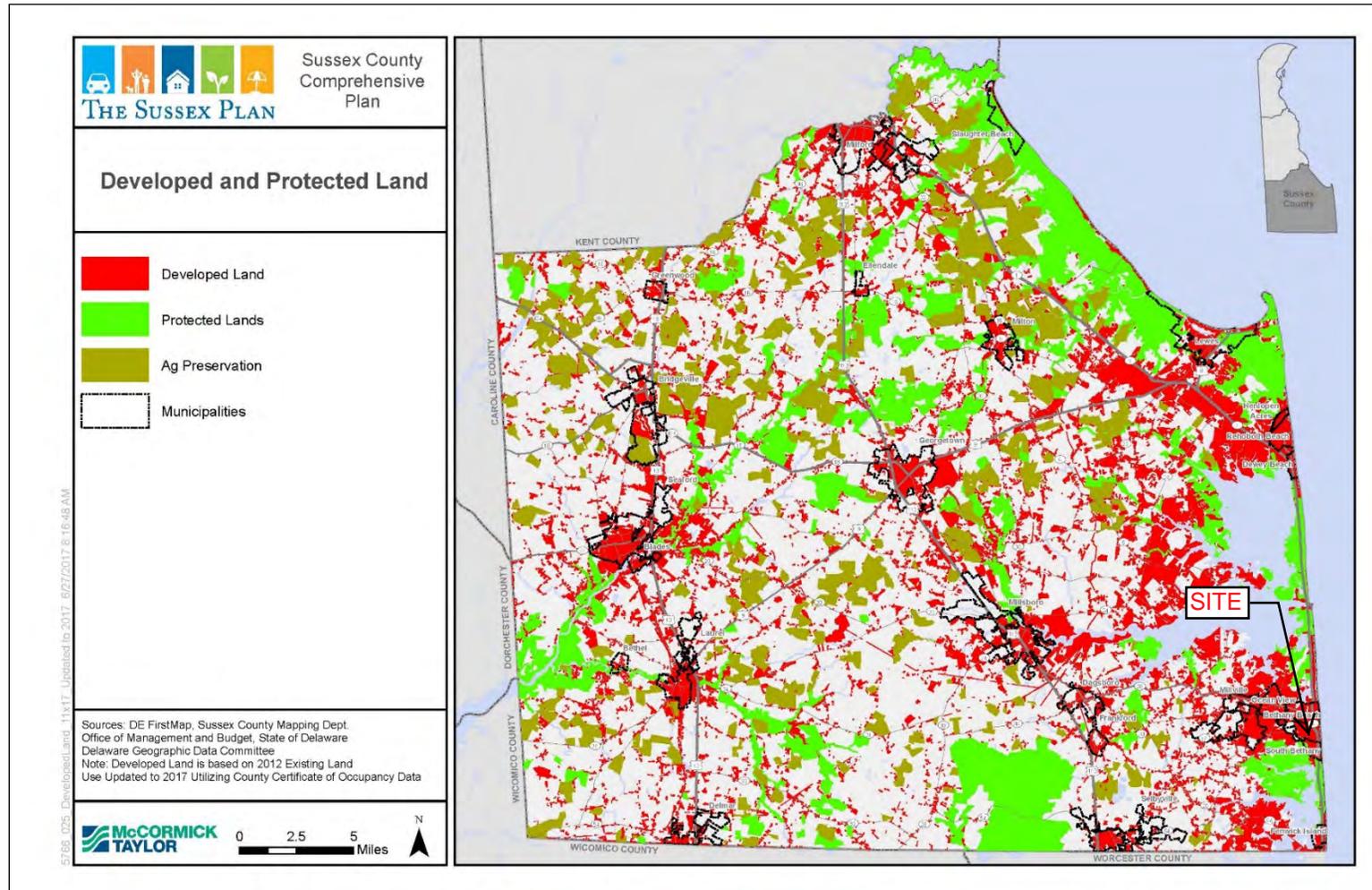


Figure 4.2-2 Developed and Protected Land *

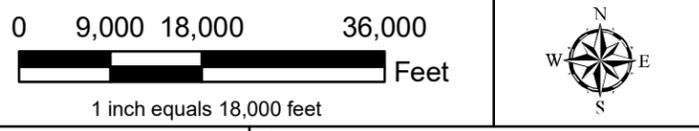
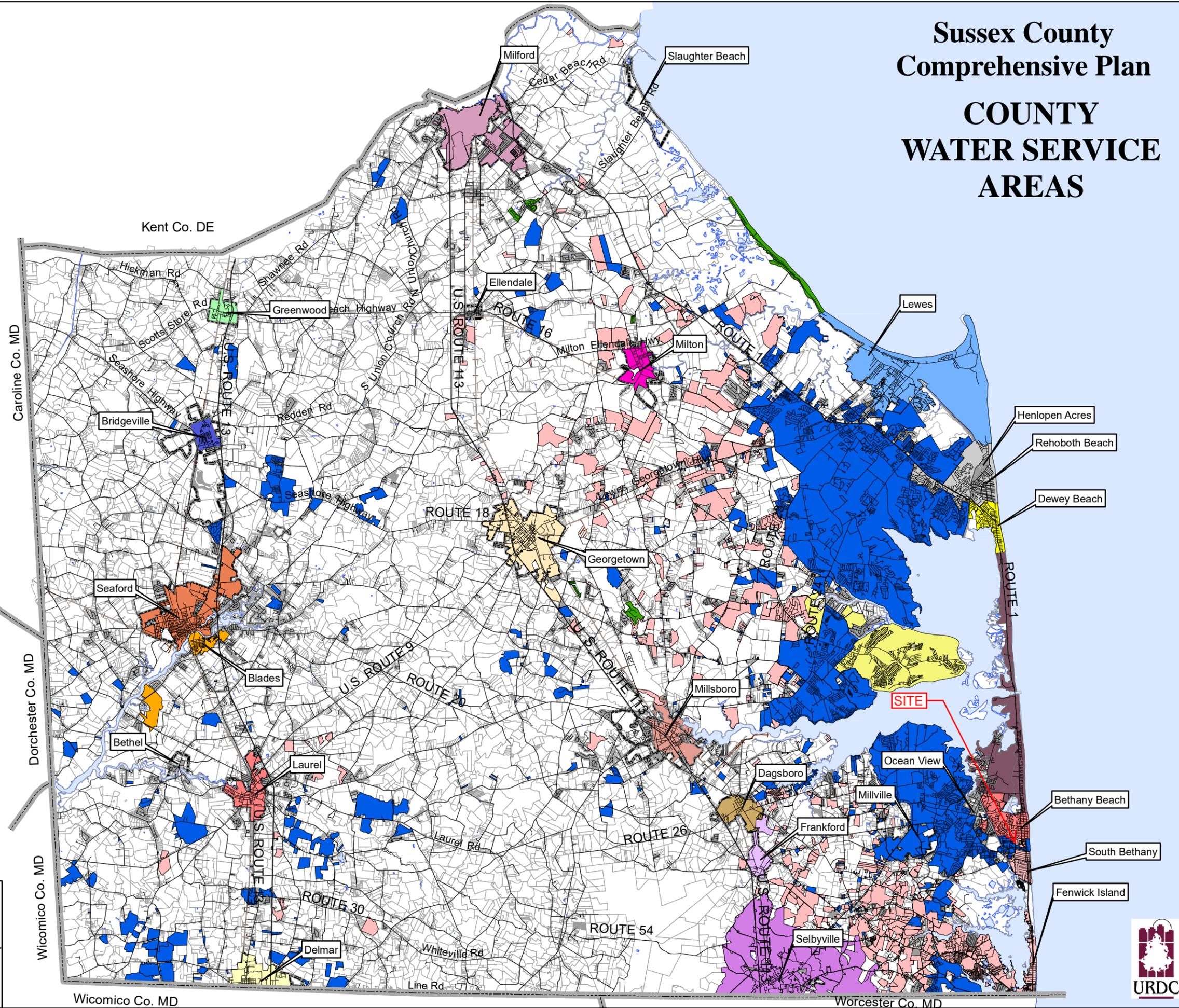


* Parcels enrolled in the State's Agricultural Lands Preservation Program change frequently and that the Delaware Department of Agriculture can be contacted for latest update.

Sussex County Comprehensive Plan COUNTY WATER SERVICE AREAS

Water Providers

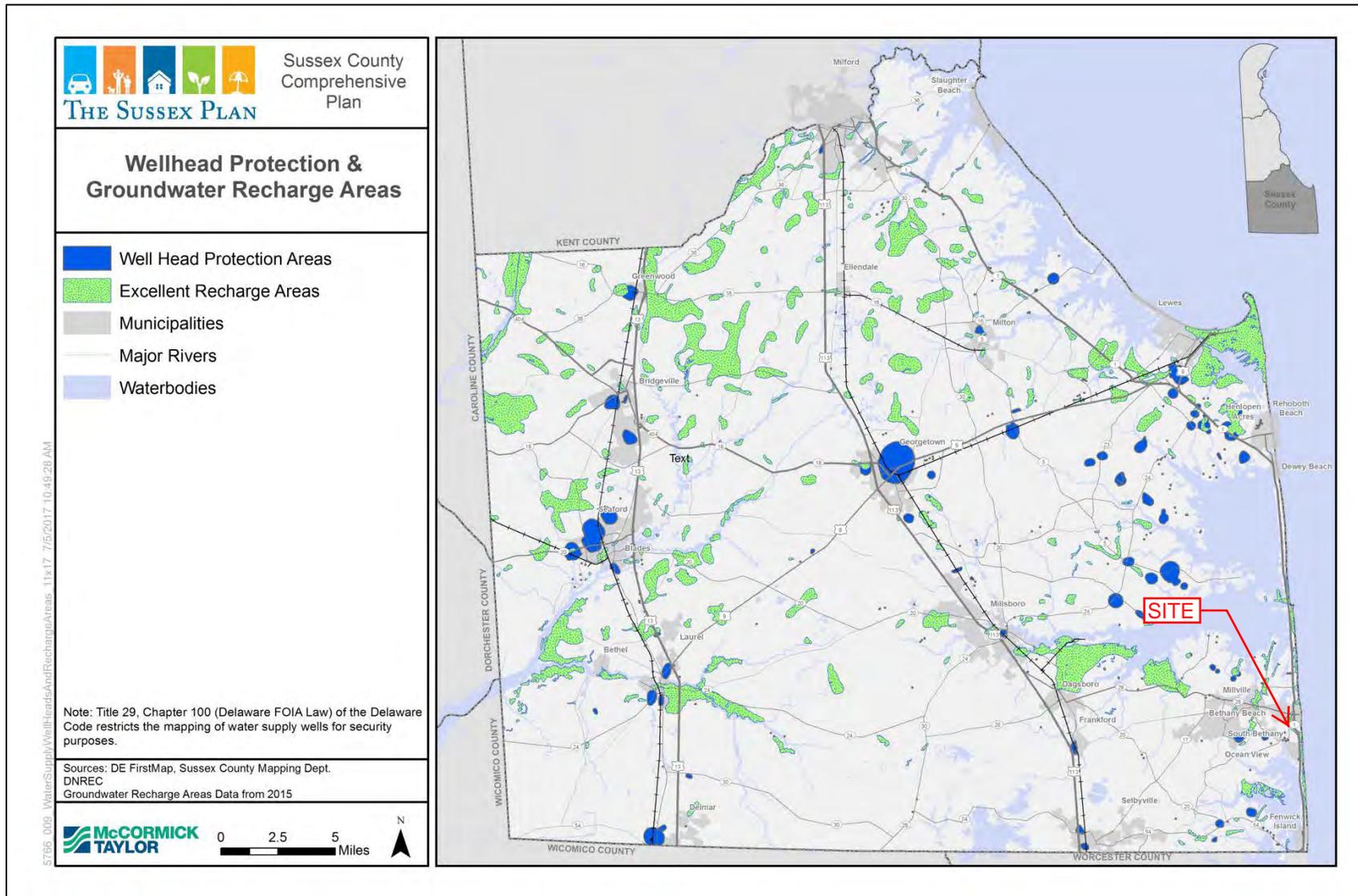
- Unknown
- Artesian Water Company
- Bethany Beach
- Blades
- Bridgeville
- Dagsboro
- Delmar
- Frankford
- Georgetown
- Greenwood
- J.H. Wilkerson & Son
- Laurel
- Lewes
- Long Neck Water Co.
- Milford
- Millsboro
- Milton
- Rehoboth
- Seaford
- Selbyville
- Sussex County Council
- Sussex Shores Water Co.
- Tidewater Utilities



Base Map Provided By: Sussex County Mapping Department
Sources: DNREC, Sussex County Mapping Department



Figure 7.2-2 Wellhead Protection & Excellent Recharge Areas



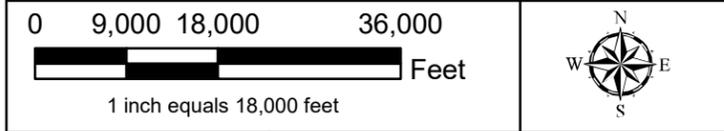
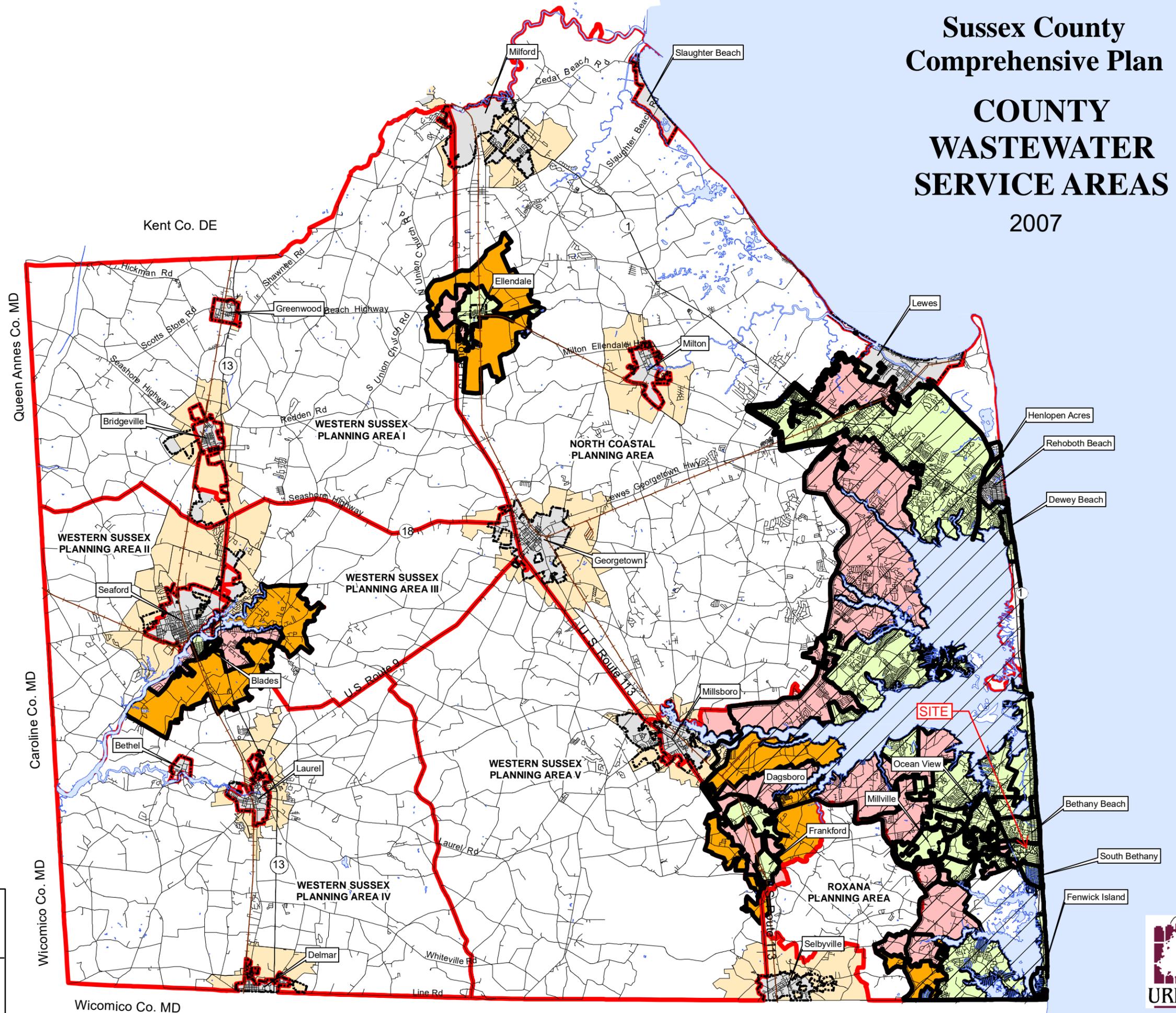
Sussex County Comprehensive Plan

COUNTY WASTEWATER SERVICE AREAS

2007

-  Environmentally Sensitive Development Area (ESDA)
-  Roads
-  Boundaries of Sewer Planning Areas
-  Existing County Sewer Districts
-  Primary County Service Areas
-  Secondary County Service Areas
-  Unclassified Service Areas
-  Town/City Potential Annexation Areas (intended to be eventually served by Town/City in most cases.)
-  Municipal Boundaries

Please see text for planning area and service area definitions.



Base Map Provided By: Sussex County Mapping Department

Sources: Sussex County Engineering Department



Figure 7.3-1 Wastewater Service Areas that have Received Certificates of Public Convenience and Necessity

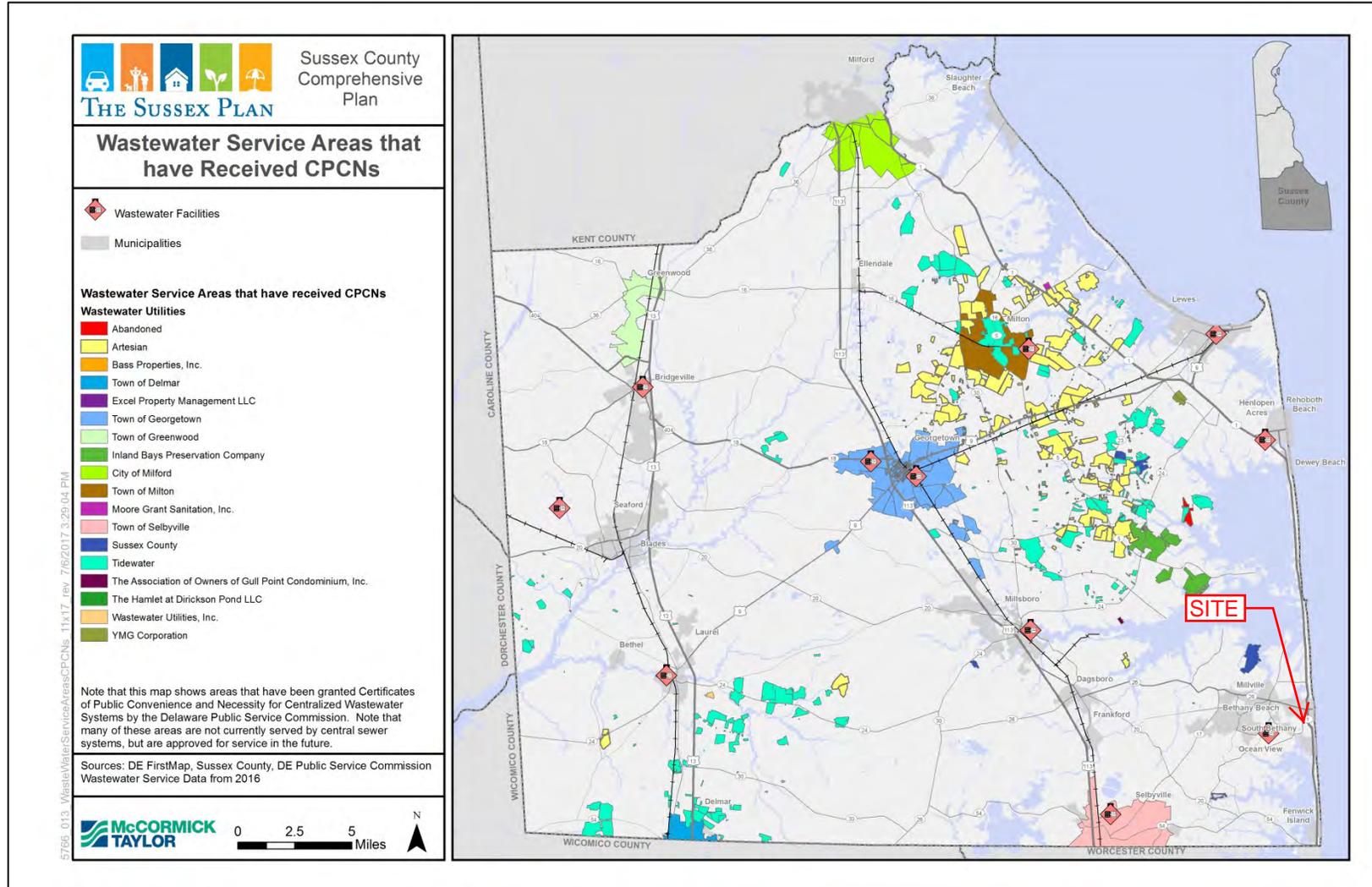
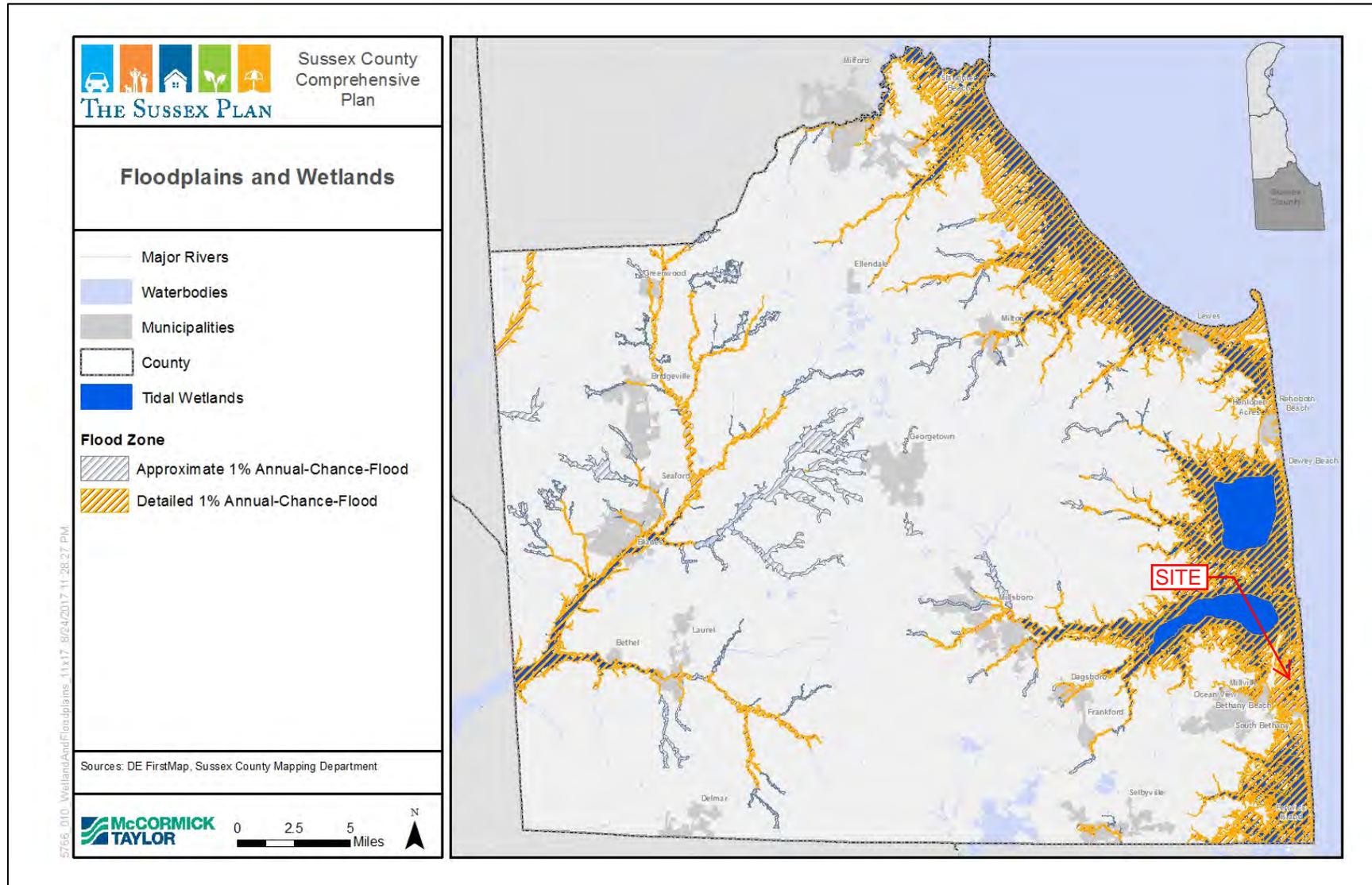
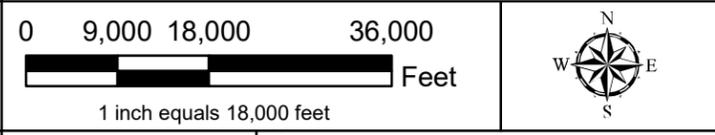
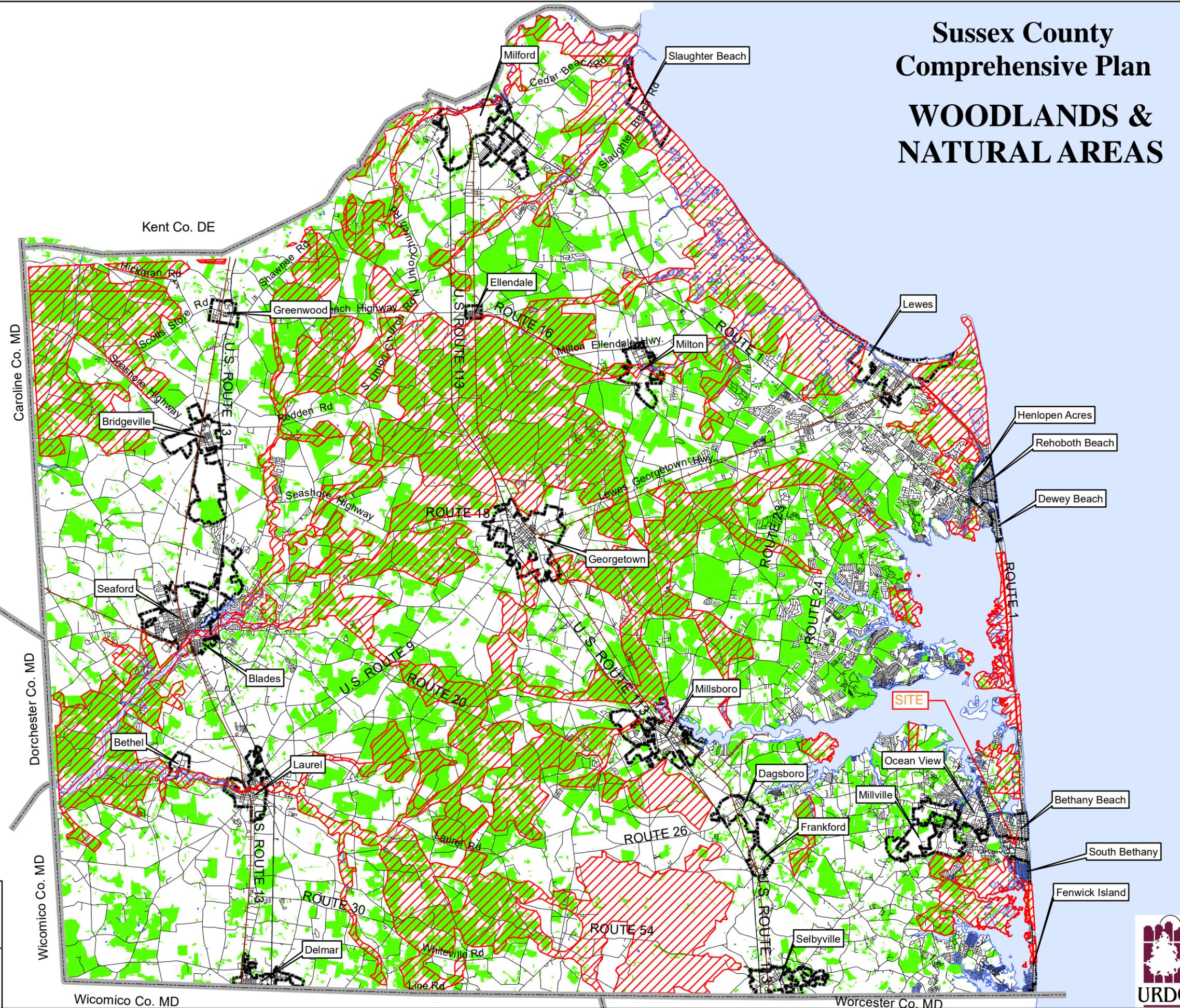


Figure 5.2-4 Wetlands and Floodplains



Sussex County Comprehensive Plan WOODLANDS & NATURAL AREAS

-  **Woodlands**
-  **Natural Areas**



Base Map Provided By: Sussex County Mapping Department

Sources: DNREC, Sussex County Mapping Department



APPENDIX H

SUSSEX COUNTY SSCE COMPLETED FORM



**WINDWARD GARDENS
SEWER SERVICE CONCEPT EVALUATION
SUSSEX COUNTY, DELAWARE**

Engineer:

Civil Engineering Associates
55 W. Main Street
Middletown, De 19709
Scott Roberts
302-584-6632

Developer:

Christopher Land, LLC
10461 Oakton Granite Drive, Suite 250
Oakton, VA 22124
703-927-8669

Project Name:

Windward Gardens

Tax Map:

134-17.00-6.00

Proposed EDUs:

8 Multifamily Units (Condominiums) = 6 EDUs (0.75 EDU/SF Unit)

Current Zoning:

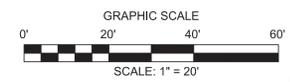
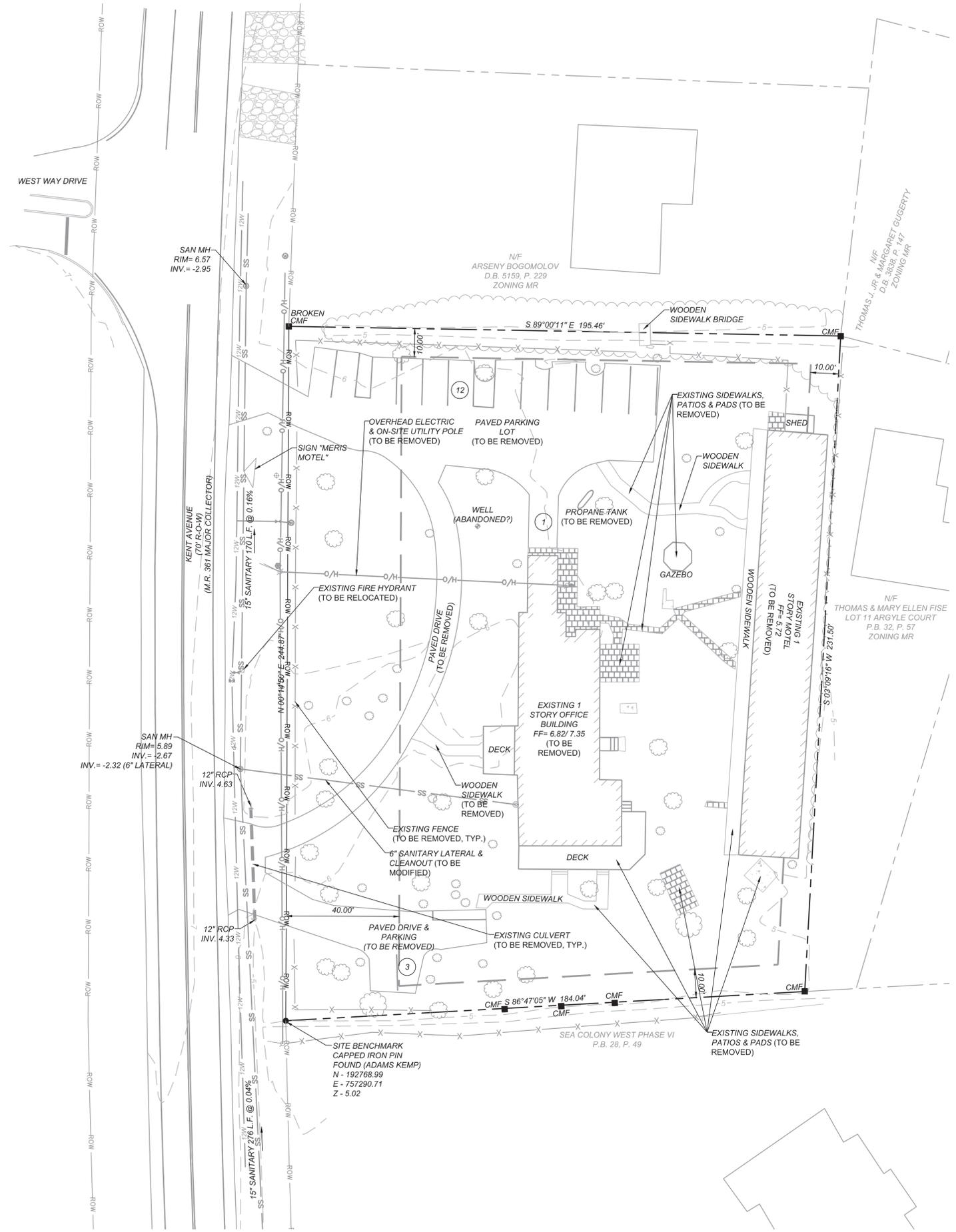
MR

Proposed Zoning:

MR

Acreage:

1.035 Acres



EXISTING CONDITIONS PLAN
FOR
WINDWARD VILLAGE
BALTIMORE HUNDRED
SUSSEX COUNTY, DELAWARE

DATE: DECEMBER 2, 2021
DESIGNED BY: JTW APPROVED BY: RHS
FILE:
SHEET NO.: **EX-1**

CIVIL ENGINEERING ASSOCIATES, LLC
• ENGINEERING • SURVEYING • CONSTRUCTION SERVICES
55 W. MAIN STREET
MIDDLETOWN, DE 19709
WWW.CEA-DE.COM
PHONE (302) 376-8833
FAX (302) 376-8834

| REVISION | DATE | DESCRIPTION |
|----------|------|-------------|
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| | | |
| | | |

DATE

Jamie Whitehouse

From: Lev Ellian <mcp2461@aol.com>
Sent: Friday, November 26, 2021 5:47 PM
To: Planning and Zoning
Subject: Opposition to #C/U2279

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Department of Planning and Zoning
Attn: Planning & Zoning Commission
2 The Circle
P.O. Box 417
Georgetown, DE 19947

**RE: Opposition to #C/U2279
Ron Sutton**

Site: 33309 Kent Avenue, Bethany Beach, DE 19930; TMP 134-17.11-6.00

Dear Commissioners:

The County has a history of working hard to be responsive to concerns on long-time property owners/residents.

You may already know exactly the concerns you'd like to state which is terrific. As you think about what you might say, you may note a couple of topics that were raised at the October 27th meeting and mentioned in my prior email:

Areas of objection raised at the October 27 meeting included:

1. ***11 is way too many units.*** The issue that we want to emphasize is that the proposed density is not in character with homes adjacent to and in the immediate vicinity of the Site—the Meris Bed & Breakfast consists of two one-story buildings, eleven units of one bedroom each which is a long way from 11 condos with 44 bedrooms.
2. ***42 foot height for this many buildings would change the character of the neighborhood.*** This is a big issue and what the developer is proposing is not in character with single family homes nearby. The vast majority of nearby homes are single family dwellings; those multi-family units nearby--the Sea Colony villas—are only two-story buildings.
3. ***Lighting from traffic on property will be a nuisance to surrounding homes.*** Picture 44 cars (when these four BR homes are fully leased or otherwise occupied) coming in and out of the complex in the evening. There may be additional concerns from spotlights or

other building lighting given that the plan calls for the buildings to be within 10 feet of the property line.

4. **Traffic—**
 - a. Adding 44 BRs and 44 cars (and likely more in July/August) to the traffic and parking mix.
 - b. Jefferson Bridge Rd. traffic, already treacherous (one recent pedestrian fatality), will be made much worse because Sea Colony is erecting a gate as an absolute limit on people driving west to east through Sea Colony.

6. ***Swails—runoff, ditches and storm drainage already are a big overflow problem in the area already near the old motel/planned condo; likely would be made worse by new construction, congestion and many more people.*** We should recognize that State law has created and requires the developer to go through an agency approval process with the Sussex Conservation District (SCD), so Commissioners generally tend to defer to the Sussex Conservation District as to opposition based on stormwater issues. This suggests NOT making this your dominant point; perhaps just emphasizing that developer's plan would double the current lot coverage and while we understand that the developer will have to comply with Sediment and Stormwater Regulations, we have experienced, and have continued concern with present stormwater issues that may be exacerbated by the development of the site in the manner proposed by the Applicant.

7. ***Condos – Developers will leave all enforcement of rules to a condo board.*** The developer/applicant held a preliminary meeting on October 27, during which the developer representatives repeatedly suggested that many of our concerns would be addressed down the road in community governing documentation. We recognize that the design of this project will be determined by the Commission and ultimately the Council, hopefully in a manner that will address our concerns now rather than post site plan approval in condominium governing documents where owners of the surrounding community of long-term, primarily single-family dwellings will be very unlikely to have any voice.

Respectfully,

Suzanne Ellian

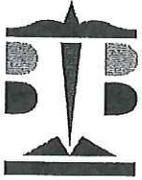
33334 Argyle Lane Bethany Beach, DE 19930
4317 Curtis Road Chevy Chase, MD 20815
HE9329@aol.com
(240) 426-5325

Levon Ellian

33334 Argyle Lane Bethany Beach, DE 19930
25223 Military Road Cascade, MD 21719
MCP2461@aol.com
(240) 418-7274

Jan Seilhamer (wife of Levon Ellian)

33334 Argyle Lane Bethany Beach, DE 19930
25223 Military Road Cascade, MD 21719



**BAIRD
MANDALAS
BROCKSTEDT LLC**

Mackenzie M. Peet
mackenzie@bmbde.com
(302) 645-2262

November 24, 2021

VIA EMAIL ONLY

Department of Planning and Zoning
Attn: Planning & Zoning Commission
2 The Circle
P.O. Box 417
Georgetown, DE 19947

RECEIVED

NOV 24 2021

SUSSEX COUNTY
PLANNING & ZONING

FILE COPY

**Opposition
Exhibit**

**RE: Opposition to #C/U2279
Ron Sutton**

Site: 33309 Kent Avenue, Bethany Beach, DE 19930; TMP 134-17.11-6.00

Dear Commissioners:

We represent Thomas and Mary Ellen Fise, property owners of three parcels (TMP 134-17.11-14.09, 14.10, 20.01) located towards the southern end of Argyle Lane in Bethany Beach, Delaware and in the immediate vicinity of the Applicant's proposed multi-family condominium project, Windward Village, proposed to be located at 33309 Kent Avenue, Bethany Beach, DE 19930 (the "Site"). We write to express opposition to the above-referenced application (the "Application") as it is presently postured, and further, to respectfully request that the Commission either deny or place several limitations on any approval of the Application to address serious concerns with the projects proposed design, height, area, and bulk requirements, parking, lot coverage, and the project's impact on Kent Avenue and Jefferson Bridge Road traffic and pedestrian safety.

The Property is presently subject of a conditional use for what we believe to be a bed and breakfast. It is also our understanding based off a newspaper article from 2010 that this Site was subject of a previous conditional use application to redevelop the previously existing four-decade-old Westward Pines Motel into 16 townhome units with a pool.¹ We requested more information on both applications from the County, but the Planning & Zoning Department was unable to find records of either application. However, the Sussex County Mapping Application confirms that a Conditional Use was granted for the Site.² It also should be noted that Lot 5 on Kent Avenue has been sold since the 2010 application, so the site for proposed Winward Village is roughly 70% of the size of the larger lot proposed in 2010 for 16 townhouse units.

Now, more than a decade later a new Applicant is seeking a conditional use to develop the Site into a multifamily development complex. Planned since February 2021, the Windward

¹ See Exhibit A.

² See Exhibit B.

Village developers propose to use the small, one-acre parcel located on the east side of Kent Avenue, approximately .66 miles south from Garfield Parkway, and adjacent to and in the immediate vicinity of the single-family homes located on the southern side of Argyle Lane, to build *eleven (11), 4-story, 42-foot-high multi-family condominium units, featuring 44 bedrooms and 44 new parking spaces* to replace Meris Gardens Bed & Breakfast that consists of single-story motel units and an office building.

On October 27, 2021, the developer and its engineer held a public interest meeting to familiarize the neighborhood with the project. Property owners adjacent to and in the vicinity of the Site, including Mr. Fise, voiced concerns about the project's proposed design, density, height, parking arrangement, lot coverage and lighting, and the proposed project's serious impact on Kent Avenue and Jefferson Bridge Road traffic, and need for privacy screening between the Site and nearby single-family residential uses.

Section 115-31 of the Sussex County Zoning Code confirms that multi-family dwelling structures in the MR-Medium Residential District may be permitted as conditional uses. Section 115-171 of the Code explains the purpose of the Conditional Uses stating as follows:

The purpose of this Article is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare, but because of the nature of the use, the importance of the relationship to the Comprehensive Plan, and possible impact, not only on neighboring properties, but on a large section of the county, require the exercise of planning judgment on location and site plan."

Stated differently, a conditional use permit is only permitted where it is desirable and will neither impact the integrity and character of the zoned district nor be detrimental to the public health, welfare, and morals. As the Commissioners understand, an Application may meet statutory requirements but still be denied if it is determined that the proposed land use does not promote the health, safety, and morals of the present and future inhabitants of Sussex County. Mr. and Mrs. Fise oppose the Application because the present design proposed by the Applicant is neither essential or desirable for the general convenience and welfare and is not in character with the surrounding community for the following reasons.

Points of Opposition

- 1) **Density:** The MR District permits 4 dwelling units/acre for single-family dwellings like the single-family dwellings that surround the Site. The Code also permits 12 dwelling units/acre for multi-family dwelling units based off a minimum lot area requirement of 3,630 square feet per dwelling unit. The Applicant proposes 11 multi-family condominium units immediately adjacent to single-family homes. 11 dwelling units per

acre meets the density and minimum lot area requirements of the Code, but the location of an 11-unit multi-family complex adjacent to and in the vicinity of single-family homes is not in character with the neighborhood. It is true that Sea Colony is in the vicinity of the Site, which were permitted at 18 dwelling units/acre, but the nearest Sea Colony townhome is located a greater distance from the Fise properties than the proposed condominium complex that will be located 10 feet from the rear yard property line of the Site.

- 2) **Height:** The project proposes to build the multi-family units to the Code's permitted 42 feet maximum height, a height limitation that may be permitted by Code but that is out of character with the one- to two-story homes adjacent to and in the vicinity of the Site and the two-story Sea Colony multi-family units nearby. Mr. and Mrs. Fise are reasonably concerned that the proposed units will tower over the Argyle Lane properties. The construction of decks on the top story of the proposed 42 feet high structures is an additional point of contention for Mr. and Mrs. Fise concerned about their potential new neighbors staring down on their properties and invading their privacy.
- 3) **Vehicular and Pedestrian Traffic:** Mr. and Mrs. Fise are concerned that the proposed project will increase traffic and congestion on already beleaguered Kent Avenue and Jefferson Bridge Road. The project proposes the addition of 44 bedrooms and 44 parking spaces. Property owners, their guests or tenants may trespass and park, legally or illegally, on surrounding streets like Argyle. Mr. and Mrs. Fise are also concerned about trespassing foot traffic for those who may seek to use Argyle as a shortcut to the beach. Added to the Jefferson Bridge Road traffic concern, is the fact that Sea Colony plans to erect a gate as an absolute limit on people driving west to east through Sea Colony, which will significantly increase traffic on Kent Avenue and Jefferson Bridge in the near future.
- 4) **Stormwater and Sewer Capacity:** There is a general concern that the development will nearly double the Site's lot coverage because there is presently an issue with stormwater runoff from the Site onto Argyle Lane properties. Mr. and Mrs. Fise understand that the Applicant will be required to comply with Sediment and Stormwater Regulations, but they remain reasonably concerned that this development will exacerbate an existing stormwater runoff issue with the increased lot coverage proposed by the Applicant. The attached press report also noted that the sewer capacity was deemed less than 60% of what would be required to permit construction of 16 townhomes on the larger 1.45 acre tract presented in the 2010 plan (10 EDUs contrasted to the 5.67 EDUs allocated).
- 5) **Existing Vegetation and Landscape Buffer:** Many trees on the Site will be removed to develop the project which will result in the removal of the presently existing landscape buffer that exists between the Site and the Fise property identified as Parcel No. 14.10. Mr. and Mrs. Fise are reasonably concerned that the existing vegetation will be removed and replaced with multi-family structures proposed 10 feet from the rear yard property line of the Site. Yes, Sea Colony is also located adjacent to their property, but

geographically separated from the Fise properties by presently existing trees that serves as a natural buffer between Sea Colony and the Fise properties unlike the proposed project that will be located 10 feet from the rear yard property line, with a five feet fence and what appears to be a tree line rather than a tree buffer. Section 115-218 of the Code permits the imposition of a condition requiring the Applicant to install a forested or landscape buffer when approving a conditional use for multifamily dwellings, a condition that Mr. and Mrs. Fise consider necessary to impose should the Application be approved.

- 6) **Light Pollution:** The Preliminary Site Plan suggests that the planned traffic pattern will direct all headlights to shine on the properties located on Argyle Lane. The Preliminary Site Plan proposes installation of a five (5) feet fence, lower than the six (6) feet existing fence of the Bed and Breakfast. Mr. and Mrs. Fise respectfully request that a condition of approval be required to install a seven (7) feet high, enclosed fence to shield the properties located on Argyle Lane from headlights.

While it may not be realistic to think development can be averted completely, the sheer density of the proposed development is excessive, applying maximum limits to height, number of condominiums, number of bedrooms in each condominium, number of new parking spaces, impact on drainage, which is neither sensitive to, nor at all consistent with the character of this peaceful neighborhood.

For all the reasons set forth above, Mr. and Mrs. Fise respectfully request that the Commission recommend denial of the Application. If you vote to recommend approval of the Application in some degree, then we respectfully request that you impose conditions to address the concerns stated herein.

In closing, I ask that this letter be included as part of the record of your December 9th, 2021 public hearing, and I thank you for your consideration.

Sincerely,

/s/ Mackenzie M. Peet

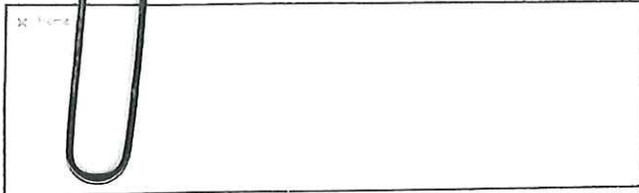
Mackenzie M. Peet, Esq.

MMP/mgp



BAIRD
MANDALAS
BROCKSTEDT ^{LLC}

EXHIBIT A



- [Home](#)
- [Photo Galleries](#)
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- [RSS](#)
- [Open House Submission](#)
- [About Us](#)

By Allison Sileo

Westward Pines Motel proposed to become townhome development

- [Front Page](#)
- [Bethany Beach](#)
- [Local News](#)

By M. Patricia Titus
News Editor

Sussex County Council members this week heard a request to grant a conditional use that would allow the owner of the Westward Pines Motel and neighboring single-family home on Kent Avenue near Bethany Beach to convert the property into a multi-family townhome-condominium development.

The project has already been considered by the county's Planning and Zoning Commission, which last month deferred a decision on whether to recommend the conditional use be approved but is expected to vote at their next meeting. According to attorney Dennis Schrader, representing owner Mary P. Kelly, Kelly would like to redevelop the four-decade-old motel and the adjacent home, sitting on 1.45 acres on the east side of Kent Avenue, south of Jefferson Bridge Road, into 16 townhome units with a pool.

The site is inside an existing medium-density residential zone, but a conditional use is required in order to be able to build 16 units there. Schrader said he felt the density shouldn't be an issue, as neighboring Sea Colony units were approved at up to 18 units per acre, and this project is proposed for less than 12 units per acre.

But a complicating factor is that the two parcels, as they are currently used, have been allocated just 5.67 equivalent dwelling units (EDU) that determine what level of sewer service the county expects to provide there. County engineers noted on Tuesday that the motel units were each allocated just .33 EDUs each, owing to not having the washing machines or dishwashers that a normal residence might have.

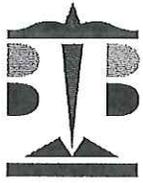
In order to build 16 townhomes on the site, the sewer capacity allocated to the property will have to increase by more than 10 EDUs.

Officially, the county engineering department recommends against approving projects with more EDUs needed than the allocated, and just last month the county council deferred indefinitely a decision on a project in the West Rehoboth sewer district that requires an increase in the allocation of EDUs, after extensive discussion of the larger issue of sewer capacity.

This week, the issue arose again in discussion of the Westward Pines project, with Councilman George Cole again telling fellow council members that he thinks the county should stick with its existing sewer capacity plan – which allocates just 5.67 units there.

"My concern is that you set a precedent," Cole said. "Does the sewer system have the capacity to double your capacity and then double the next one?" he asked, pointing to the potential for more projects to ask for such accommodations in the future. "Where do we draw the line? We do have a plan. Should we follow the plan?" he asked Schrader.

"I think your county plan would not permit this type of project," Schrader replied. "But the debate you need to have is between your philosophy and what the county engineering department is capable of doing. There may be some projects built that



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT B

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 9th, 2021

Application: CU 2282 Lawrence Davies

Applicant: Lawrence Davies
85 Windjammer Drive
Ocean Pines, MD 21811

Owner: Bethany Bay Brewing Co., LLC
38450 Hickman Road
Ocean View, DE 19970

Site Location: The property is lying on the southeast corner of the intersection of Cedar Neck Rd. (S.C.R. 357) and Hickman Rd. (S.C.R. 359)

Current Zoning: General Commercial (C-1) Zoning District

Proposed Use: Microbrewery

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Sussex County

Water: Sussex Shores Water Co.

Site Area: 2.35 acres +/-

Tax Map ID.: 134-9.00-27.00





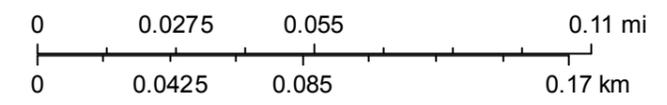
Sussex County



| | |
|------------------------|---------------------|
| PIN: | 134-9.00-27.00 |
| Owner Name | JAKK LLC |
| Book | 4686 |
| Mailing Address | 30447 CEDAR NECK RD |
| City | OCEAN VIEW |
| State | DE |
| Description | RD OCEAN VIEW TO |
| Description 2 | COTTON PATCH HILLS |
| Description 3 | N/A |
| Land Code | |

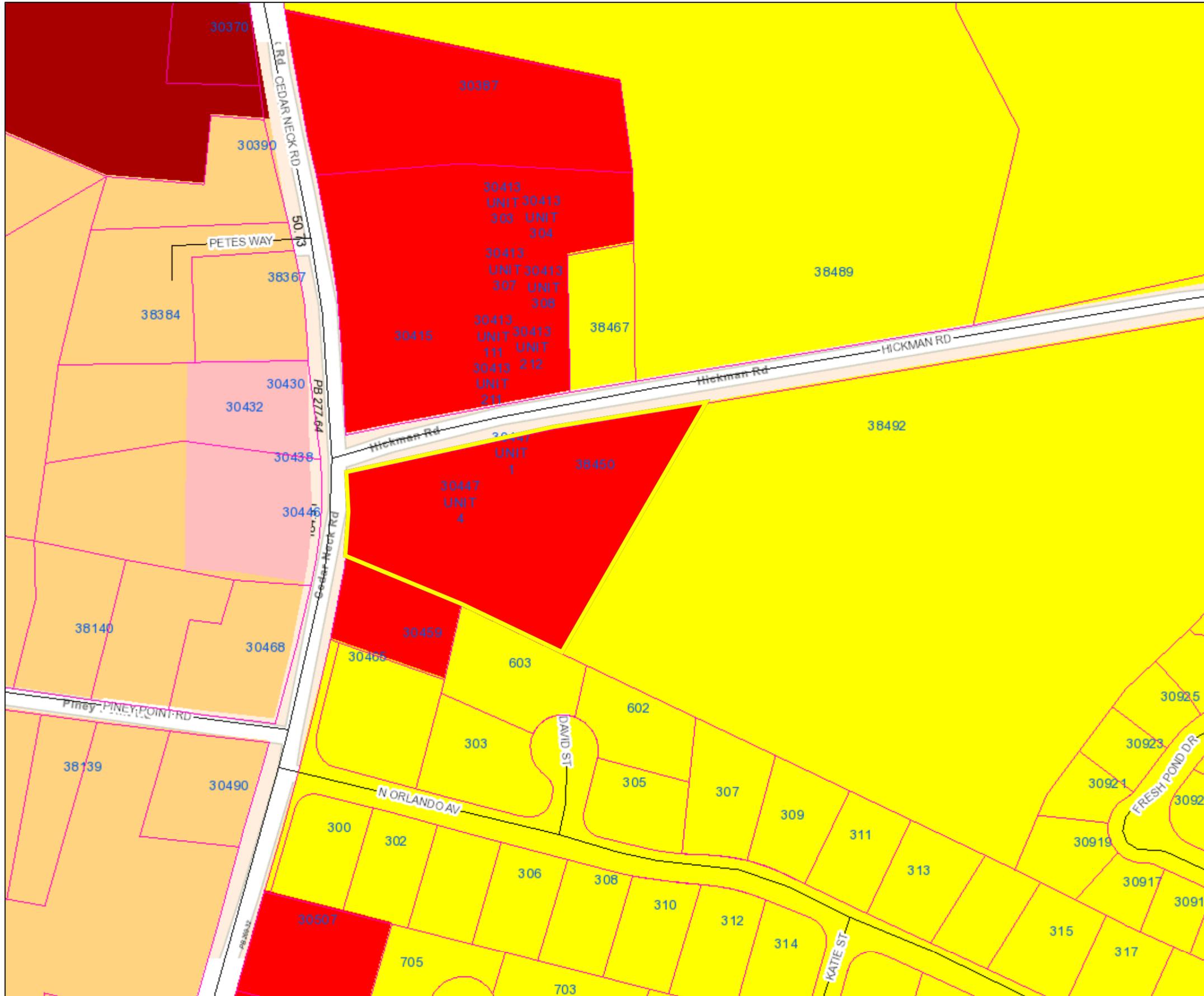
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
- Tax Ditch Channel
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Municipal Boundaries
- TID

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Sussex County



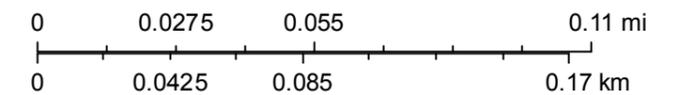
| | |
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| Description 2 | COTTON PATCH HILLS |
| Description 3 | N/A |
| Land Code | |

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and Applicant
Date: December 2, 2021
RE: Staff Analysis for CU 2282 Lawrence Davies

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2282 Lawrence Davies to be reviewed during the December 9, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 134-9.00-27.00 to allow for a microbrewery. The parcel is lying on the southeast corner of the intersection of Cedar Neck Road (S.C.R. 357) and Hickman Road (S.C.R. 359). The parcel consists of 2.35 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the parcel has a designation of "Coastal Area". The surrounding and adjacent parcels to the north, south, west and east also contain the "Coastal Area" land use designation.

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhomes, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed.

The subject property is zoned General Commercial (C-1). The adjacent properties to the south and east of the subject site are zoned Medium Residential (MR). An adjacent property to the south and properties across Hickman Road are zoned General Commercial (C-1). Properties across Cedar Neck Road are zoned Neighborhood Business (B-1) and General Residential (GR).

Since 2011, there has been nine (9) Conditional Use applications within a 1-mile radius of the application site. Please refer to the attached map and spreadsheet that references the Conditional Use applications within a 1-mile radius of this site that have been approved since 2011.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional use for a microbrewery, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



| Name | Conditional Use Number | Tax Parcel # | APPLICANT | 911 Address or Road Name | Current Zoning | Proposed Use | P&Z Initial Hearing Date | P&Z Decision | P&Z Decision Date | CC Initial Hearing Date | CC Decision Date | CC Decision | Ordinance Number | Application Number | Development Name | Application Rcvd Date | Introduced to CC | Advertised Date | acreage | Assigned Planner | parcel id 2 | parcel id 3 | |
|-----------------|------------------------|-----------------|--|-----------------------------|----------------|----------------------------------|--------------------------|----------------------|-------------------|-------------------------|------------------|-------------|------------------|--------------------|------------------|-----------------------|------------------|-----------------|-----------|------------------|-----------------|----------------|----------------|
| 134-9.00-12.00 | 1924 | 134-9.00-12.00 | Colony Pool Service Inc. | DE Route 1 | MR | Above Ground Storage Tank | 3/8/2012 | Recommended Approval | 3/22/2012 | 4/3/2012 | 4/3/2012 | Approved | 2247 | 201400794 | | 1/5/2012 | 1/24/2012 | 2/3/2012 | | | | | |
| 134-9.00-21.00 | 1986 | 134-9.00-21.00 | Castaways Bethany, LLC | Cedar Neck Rd | MR | Multi-Family Dwelling Structures | 4/24/2014 | Recommended Approval | 5/22/2014 | 6/17/2014 | 7/22/2014 | Approved | 2359 | | | | 2/3/2014 | | 3/26/2014 | | | | |
| 134-9.00-88.00 | 2085 | 134-9.00-88.00 | Land and Materials Corp (Salt Aire) The | 38112 Sandy Cove Rd | GR | multi-family (19 SF dwellings) | 7/13/2017 | Recommended Approval | 7/27/2017 | 8/22/2017 | 9/26/2017 | Approved | 2519 | | | | 2/8/2017 | 2/21/2017 | 6/21/2017 | | | 134-9.00-80.01 | 134-9.00-80.06 |
| 134-13.00-72.00 | 2130 | 134-13.00-72.00 | Evergreene Companies, LLC (pallots corner) | 30733 Cedar Neck Rd. | MR | Multi-family (20 Townhomes) | 6/14/2018 | Recommended Approval | 6/28/2018 | 7/24/2018 | 10/30/2018 | Approved | 2609 | 201800228 | Pallots Corner | 1/11/2018 | 1/23/2018 | | 2.38 | | 134-13.00-72.01 | | |
| 134-9.00-21.00 | 2131 | 134-9.00-21.00 | CBB Cedar Pines, LLC | Cedar Neck Rd | MR | Multi-Family (30 Units) | 6/14/2018 | Recommended Approval | 6/14/2018 | 7/24/2018 | 7/24/2018 | Approved | 2587 | 201800515 | | 1/22/2018 | 2/6/2018 | | 11.53 | | | | |
| 134-9.00-21.00 | 2207 | 134-9.00-21.00 | CBB Cedar Pines, LLC (Marlin Run) | Cedar Neck Rd. | MR | Multi-family (75 SF & TH) | 3/25/2021 | Recommended Approval | 4/8/2021 | 4/27/2021 | 4/27/2021 | Approved | 2772 | 201910926 | Marlin Chase | 9/24/2019 | 2/4/2020 | | 29.34 | Lauren | | | |
| 134-9.00-67.00 | 2239 | 134-9.00-67.00 | Coastal Properties LLC | 30430 & 30432 Cedar Neck Rd | B-1/GR | General Contracting Business | 9/24/2020 | Recommended Approval | 10/8/2020 | 10/27/2020 | 10/27/2020 | Approved | 2749 | 202005400 | | 5/1/2020 | 8/11/2020 | | 1.08 | Christin | | | |
| 134-13.00-72.02 | 2259 | 134-13.00-72.02 | The Evergreen Companies, LLC | Fred Hudson Road | MR | 30 single family conominum units | 6/24/2021 | Recommended Approval | 7/22/2021 | 8/10/2021 | 8/10/2021 | Deferred | | 201301402 | | 1/5/2021 | 3/23/2021 | | 11.96 | Nick | | | |



Conditional Use Map - CU's Within 1 Mile
CU 2282 Lawrence Davies
134-9.00-27.00



File #: CU # 2282

202106640

Planning & Zoning Commission Application
Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

38450 Hickman Road, Ocean View, DE 19970

Type of Conditional Use Requested:

Microbrewery

Tax Map #: 134-9.00-27.00

Size of Parcel(s): 2.35 acres

Current Zoning: C-1

Proposed Zoning: C-U

Size of Building: 44' X 58'-6 1/2"

Land Use Classification: CO

Water Provider: Sussex Shores Water Co.

Sewer Provider: County Wastewater Sewer District

Applicant Information

Applicant Name: Lawrence Davies

Applicant Address: 58 Windjammer Drive

City: Ocean Pines

State: MD

Zip Code: 21811

Phone #: (410) 430-6929

E-mail: brewinop@gmail.com

Owner Information

Owner Name: Bethany Bay Brewing Co., LLC

Owner Address: 38450 Hickman Road

City: Ocean View

State: DE

Zip Code: 19970

Phone #: (410) 430-6929

E-mail: brewinop@gmail.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: MacKenzie M. Peck

Agent/Attorney/Engineer Address: 1413 Savannah Road, Suite 1

City: LEWES

State: DE

Zip Code: 19958

Phone #: 302-645-2262

E-mail: macKenzie@bmbde.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

Completed Application

Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description

Provide Fee \$500.00

Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

DelDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

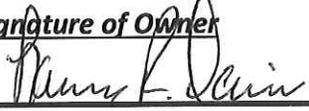
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 9/26/2021

Signature of Owner



Date: 9/26/2021

For office use only:

Date Submitted: 4/29/2021

Staff accepting application: cer

Location of property: _____

Fee: \$500.00 Check #: 1012

Application & Case #: 202106640

Subdivision: _____

Date of PC Hearing: _____

Date of CC Hearing: _____

Recommendation of PC Commission: _____

Decision of CC: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

April 12, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Lawrence Davies** proposed land use application, which we received on April 6, 2021. This application is for an approximately 2.75- acre parcel (Tax Parcels: 134-9.00-27.00). The subject land is located on the southeast corner of Hickman Road (Sussex Road 359) and Cedar Neck Road (Sussex Road 357). The subject land is currently zoned C-1 (General Commercial) and the applicant seeks a conditional use approval for a Microbrewery.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Hickman Road, is 370 vehicles per day. The annual average daily traffic volume along Cedar Neck Road from Hickman Road to Fred Hudson Road (Sussex Road 360), is 7,468 vehicles per day.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DelDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

DelDOT's description of this application as diminutive in the context of our agreement with the County regarding land development coordination assumes that the use of the site will be limited to the manufacture of beer and similar products. To the extent that ancillary bar or



Mr. Jamie Whitehouse
Page 2 of 2
April 12, 2021

restaurant uses are also permitted, the subject development may generate more traffic. Even then, however, DeIDOT does not anticipate this use generating enough trips to meet the minimum TIS warrants.

If the County approves this application, the applicant should be reminded that DeIDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.

Please contact Ms. Annamaria Fumato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff
Enclosure

cc: Lawrence Davies, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Fumato, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CU 2282 Lawrence Davies**

APPLICANT: **Lawrence Davies**

FILE NO: **CN-1.05**

TAX MAP &
PARCEL(S): **134-9.00-27.00**

LOCATION: **Lying on the southeast corner of the intersection of Cedar Neck Road (SCR 357) and Hickman Road (SCR 359)**

NO. OF UNITS: Click or tap here to enter text.

GROSS
ACREAGE: **2.35**

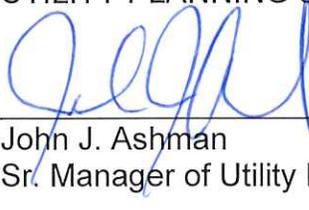
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 1**
- (3). Is wastewater capacity available for the project? **Yes** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **Yes** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **Yes** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Denise Burns** at **302-855-7719** for additional information on charges.

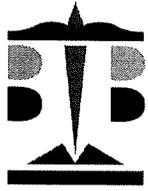
- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **N/A**
- (8). Comments: **Parcel is currently served with two 8-inch laterals. One on Cedar Neck Road and the other on Hickman Road.**
- (9). Is a Sewer System Concept Evaluation required? **Yes, Contact Utility Planning at 302-855-1299 to apply**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Yes**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Denise Burns



BAIRD
MANDALAS
BROCKSTEDT PC

Mackenzie M. Peet
mackenzie@bmbde.com
(302)645-2262

November 29, 2021

VIA EMAIL ONLY

Planning & Zoning Department
c/o Director Jamie Whitehouse
2 The Circle (P.O. Box 417)
Georgetown, DE 19947
Email: jamie@sussexcountyde.gov

RE: Conditional Use No. 2282 Bethany Bay Brewing Co., LLC
Site: 30447 Cedar Neck Road, Unit 1, Ocean View, Delaware
TMP: 134-9.00-27.00

Director Whitehouse:

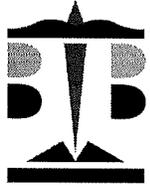
Please accept the exhibits labeled Exhibit A through Exhibit J attached to this letter as Bethany Bay Brewing Co., LLC's supplemental submission for their Conditional Use Application denominated CU No. 2282 to be heard by the Planning & Zoning Commission on December 9, 2021.

Should you have any questions, please contact us by email at mackenzie@bmbde.com or by phone at 302-645-2262.

Sincerely,

/S/ Stephen W. Spence, Esq.
/S/ Mackenzie M. Peet, Esq.

Stephen W. Spence, Esq.
Mackenzie M. Peet, Esq.
SWS/MMP



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT A

Property and Deed Information

Property Information

Property Location: 30447 CEDAR NECK RD
 Unit:
 City: OCEAN VIEW
 Zip: 19970
 State: DE
 Class: COM-Commercial
 Use Code (LUC): CO-COMMERCIAL
 Town: 00-None
 Tax District: 134 - BALTIMORE
 School District: 1 - INDIAN RIVER
 Council District: 4-Hudson
 Fire District: 84-Millville
 Deeded Acres: 2.7500
 Frontage: 0
 Depth: .000
 Irr Lot:
 Plot Book Page: /PB
 100% Land Value: \$27,500
 100% Improvement Value: \$238,900
 100% Total Value: \$266,400

Legal

Legal Description: RD OCEAN VIEW TO
 COTTON PATCH HILLS

Owners

| Owner | Co-owner | Address | City | State | Zip |
|----------|----------|---------------------|------------|-------|-------|
| JAKK LLC | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 |

Sales

| Sale Date | Book/Page | Sale Price | Stamp Value | Parcels Sold | Grantee/Buyer |
|------------|-----------|----------------|-------------|--------------|---------------|
| 03/30/2017 | 4686/173 | \$2,500,000.00 | \$37,500.00 | 2 | |

Owner History

| Tax Year: | Owner: | Co-owner | Address: | City: | State: | Zip: | Deed Book/Page: |
|-----------|--------------------------|----------|---------------------|------------|--------|-------|-----------------|
| 2021 | JAKK LLC | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 | 4686/173 |
| 2020 | JAKK LLC | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 | 4686/173 |
| 2019 | JAKK LLC | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 | 4686/173 |
| 2018 | JAKK LLC | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 | 4686/173 |
| 2017 | JAKK LLC | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 | 4686/173 |
| 2012 | HICKMAN LLOYD H TRUSTEE | | 30447 CEDAR NECK RD | OCEAN VIEW | DE | 19970 | 2732/175 |
| 2009 | HICKMAN LLOYD H TRUSTEE | | PO BOX 186 | OCEAN VIEW | DE | 19970 | 2732/175 |
| 2005 | HICKMAN LLOYD H TRUSTEE | | PO BOX 186 | OCEAN VIEW | DE | 19970 | 2732/175 |
| 2003 | HICKMAN LLOYD H TRUSTEE | | PO BOX 186 | OCEAN VIEW | DE | 19970 | 2732/175 |
| 2001 | HICKMAN LLOYD H DOLLIE M | | RR 1 BOX 186 | OCEAN VIEW | DE | 19970 | 0/0 |
| 1900 | UNKNOWN | | | | | 0 | 382/564 |

Land

| Line | Class | Land Use Code | Act Front | Depth | Calculated Acres | Ag |
|------|-------|---------------|-----------|-------|------------------|----|
| 1 | COM | CO | 0 | 0 | 2.7500 | |

Land Summary

| | |
|-----------------|--------|
| Line | 1 |
| 100% Land Value | 27,500 |

100% Values

| | | |
|-----------------|-------------------|------------------|
| 100% Land Value | 100% Improv Value | 100% Total Value |
| \$27,500 | \$238,900 | \$266,400 |

50% Values

| | | |
|----------------|------------------|-----------------|
| 50% Land Value | 50% Improv Value | 50% Total Value |
| \$13,750 | \$119,450 | \$133,200 |

Permit Details

| Permit Date: | Permit #: | Amount: | Note 1 |
|--------------|-----------|----------|---|
| 16-FEB-2021 | 202014898 | \$65,000 | HICKMAN'S LIQUORS |
| 14-JUN-2013 | 201307157 | \$0 | OFF PREMISE SIGN |
| 27-NOV-2007 | 25383-13 | \$40,000 | REPLACE ROOF-RD OCEAN VIEW-COTTON PATCH HIL |
| 09-JUN-2004 | 25383-12 | \$20,000 | ADDITION TO BAR-OCEAN VIEW TO PATCH HILLS |
| 23-MAR-1995 | 25383-11 | \$0 | SIGN-E/35730'N/HICKMAN RD. |
| 17-FEB-1993 | 25383-10 | \$81,000 | PACKAGE STORE ADD.-E/357S/HICKMAN RD. |
| 11-JUN-1990 | 25383-9 | \$0 | SIGN-RT.357AT INT.RT.359 |
| 11-OCT-1989 | 25383-8 | \$60,000 | STORE-SE/RT 357 AT RT 359 |
| 27-MAY-1988 | 25383-7 | \$6,000 | 10 BARNS-S/359INT.RT.357 |
| 30-JUL-1986 | 25383-6 | \$7,100 | 10 BARNS-E/357AT INT.RT.360A |
| 02-DEC-1985 | 25383-5 | \$400 | SHED-E/357INT.RT.359 |
| 28-JUN-1985 | 25383-4 | \$4,900 | 7 MINI STORAGE BLDGS-E/357 S/359 |
| 08-APR-1985 | 25383-3 | \$2,100 | 3 STORAGE BARNS-E/357 AT INT.RT.359 |
| 28-FEB-1984 | 25383-2 | \$12,000 | ADDITIONAL SHOPS-E/357 S/359 |
| 11-JAN-1984 | 25383-1 | \$75,000 | ADDITION TO STORE-ROUTE 357 INT. RTE.358 |

12017

BK: 4686 PG: 173

TAX MAP #: 1-34 9.00 27.00 & 1-34
9.00 30.00

PREPARED BY & RETURN TO:

Tunnell & Raysor, P.A.
323 Rehoboth Avenue
Suite E
Rehoboth Beach, DE 19971
File No. AS10008/KMH

RECEIVED
Mar 30, 2017
ASSESSMENT DIVISION
OF SUSSEX COUNTY

THIS DEED, made this March 24, 2017,

- BETWEEN -

**LLOYD H. HICKMAN, TRUSTEE OF THE LLOYD H. HICKMAN
REVOCABLE TRUST DATED JULY 22, 2002**, as amended of 38492 Hickman Road,
Ocean View, DE 19970, party of the first part,

- AND -

JAKK LLC, of 34156 Citizens Dr., Lewes, DE 19958, as sole owner, party of the
second part.

WITNESSETH: That the said party of the first part, for and in consideration of the
sum of **ONE DOLLAR (\$1.00)**, lawful money of the United States of America, the receipt
whereof is hereby acknowledged, hereby grants and conveys unto the party of the second
part, and its heirs and assigns, in fee simple, the following described lands, situate, lying
and being in Sussex County, State of Delaware:

TRACT NO. 1: 1-34 9.00 27.00

ALL that certain piece, parcel, tract, or lot of land lying and being situated in
Baltimore Hundred, Sussex County, Delaware, being more particularly bounded and
described as follows, to wit:

BEGINNING for this description at a concrete monument placed on the easterly right-of-way of Road 357 and on the southerly right-of-way of Road 359, at the intersection of said right-of-way lines; thence, from said point of beginning, and by and with the said southerly right-of-way of Road 359, North 87 degrees 07 minutes 8 seconds East, 542.50 feet to a concrete monument and the easterly line of Hickman tract; thence, by and with the said easterly line, South 42 degrees 11 minutes 30 seconds West, 435.05 feet to a concrete monument, a southerly corner for the Hickman property; thence, North 57 degrees 28 minutes 34 seconds West, 335.59 feet to a concrete monument placed on the easterly right-of-way of the aforesaid Road 357; thence, by and with the said easterly right-of-way line, North 16 degrees 12 minutes 43 seconds East, 119.38 feet to the place of Beginning, containing 2.3545 acres of land, be the same more or less, as surveyed by Foresight Services, Registered Surveyors on March 22, 2017.

TRACT NO. 2: 1-34 9.00 30.00

ALL that certain lot, piece or parcel of land with the improvements thereon erected situated in Baltimore Hundred, Sussex County, Delaware lying on the Easterly side of County Road 357 Cedar Neck Road, a short distance North of North Orlando Avenue, and being more particularly bounded and described in accordance with a recent survey prepared by Foresight Services, Registered Surveyors on March 22, 2017.

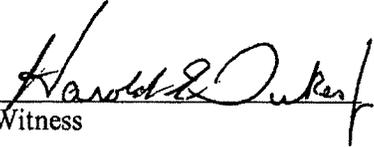
BEGINNING at a concrete monument located on the eastern edge of Cedar Neck Road, said monument being South 16 degrees 12 minutes 43 seconds West a distance of 119.38 of the intersection of Cedar Neck Road and Hickman Road and the corner of Tax Map & Parcel Number 1-34 9.00 27.00 thence with Tax Map and Parcel Number 1-34 9.00 27.00 North 57 degrees 28 Minutes 34 seconds West a distance of 171.21 feet to the corner of Lot 4 Murray Estates and a concrete monument; thence following the edge of Lot 4 South 19 degrees 31 minutes 45 seconds East a distance of 112.42 feet to a concrete monument at the corner of Lot 2 Murray Estates; thence following Lot 2 North 63 degrees 42 minutes 5 seconds West a distance of 168 feet to a concrete monument located at the edge of Cedar Neck Road; thence following Cedar Neck Road North 19 degrees 31 minutes 45 seconds East a distance of 131.11 feet home to the place and point of beginning containing 20.314 square feet.

BEING a portion of the same lands conveyed to Lloyd H. Hickman, Trustee of the Lloyd H. Hickman Revocable Trust dated July 22, 2002 from Lloyd H. Hickman and Dollie M. Hickman, by Deed dated July 22, 2002, recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware, on July 24, 2002, in Deed Book 2732, Page 75.

SUBJECT to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

IN WITNESS WHEREOF, the party of the first part has hereunto set its hand and seal the day and year first above written.

SIGNED, SEALED, AND DELIVERED, **THE LLOYD H. HICKMAN REVOCOABLE TRUST**
IN THE PRESENCE OF: **DATED JULY 22, 2002**

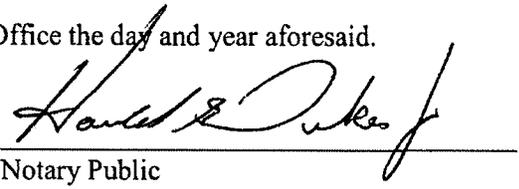

Witness


Lloyd H. Hickman, Trustee of the Lloyd H. Hickman Revocable Trust dated July 22, 2002

STATE OF DELAWARE, COUNTY OF SUSSEX: to-wit

BE IT REMEMBERED, that on March 24, 2017, personally came before me, the subscriber, Lloyd H. Hickman, Trustee of The Lloyd H. Hickman Revocable Trust dated July 22, 2002, party of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be its act and deed.

GIVEN under my Hand and Seal of Office the day and year aforesaid.


Notary Public

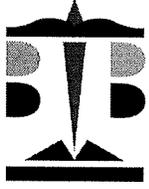
HAROLD E. DUKES, JR.
ATTORNEY AT LAW WITH
POWER TO ACT AS NOTARY PUBLIC
PER 29 DEL. C SEC 4323 (A)3

My Commission Expires: _____

Consideration: 2,500,000.00

County 37,500.00
State 37,500.00
Town Total 75,000.00
Received: Teresa C Mar 30, 2017

Recorder of Deeds
Scott Dailey
Mar 30, 2017 12:12P
Sussex County
Doc. Surcharge Paid



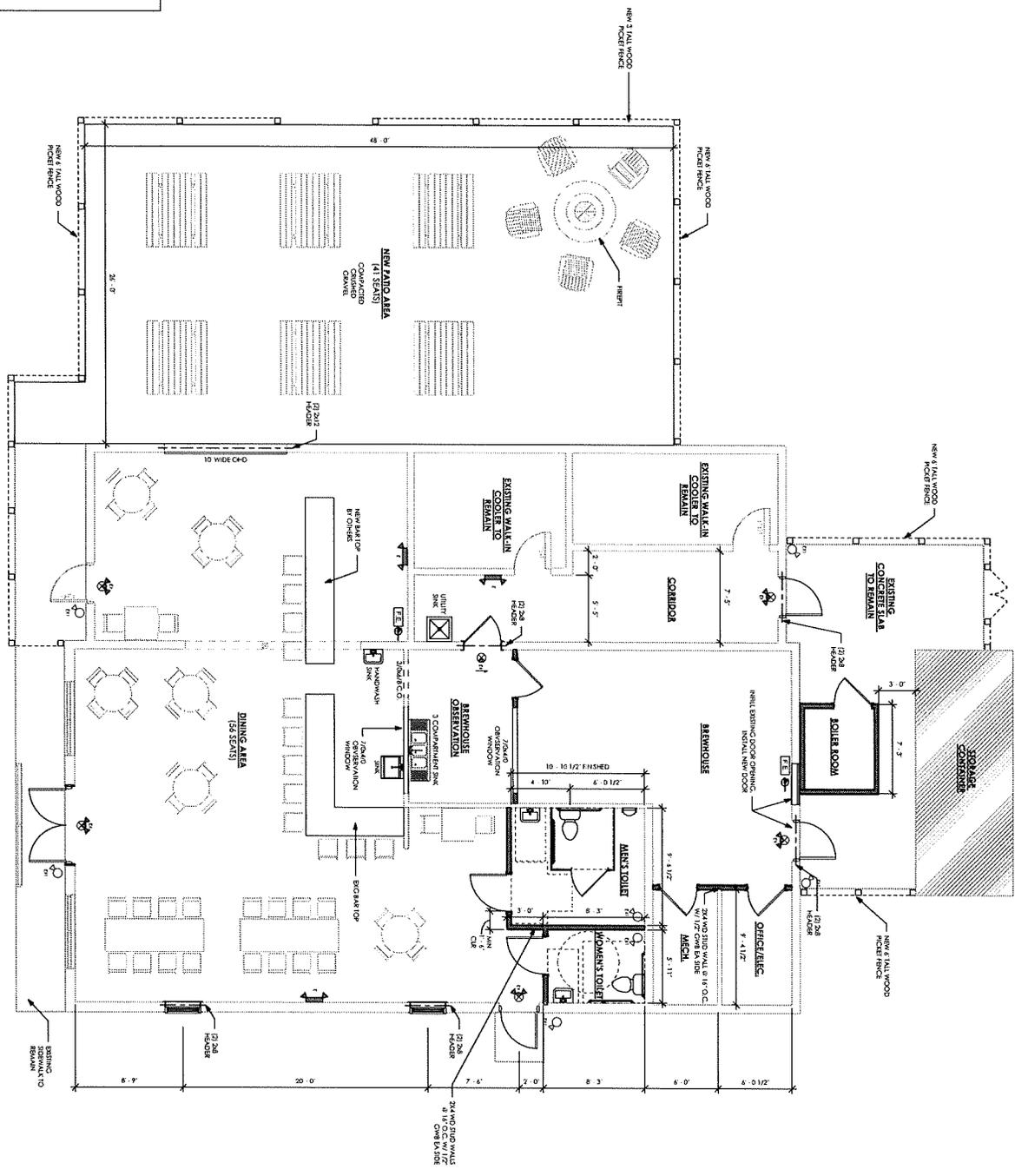
BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT B
Preliminary Site Plan
& Interior Plans

EMERGENCY LIGHTING & EGRESS LEGEND

- EXIT DISCHARGE FLOOD
- EXIT SIGN
- ARROW INDICATES DIRECTION OF EGRESS
- EXIT SIGN W/ FLOODS - ARROW INDICATES DIRECTION OF EGRESS
- EMERGENCY FLOODS

NEW WORK FLOOR PLAN
1/4" = 1'-0"



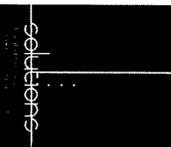
Date: 11/15/2021
 Job Number: 021025
 Scale: 1/4" = 1'-0"
 Drawn By: JH
 Designed By: JH
 Approved By: SGR

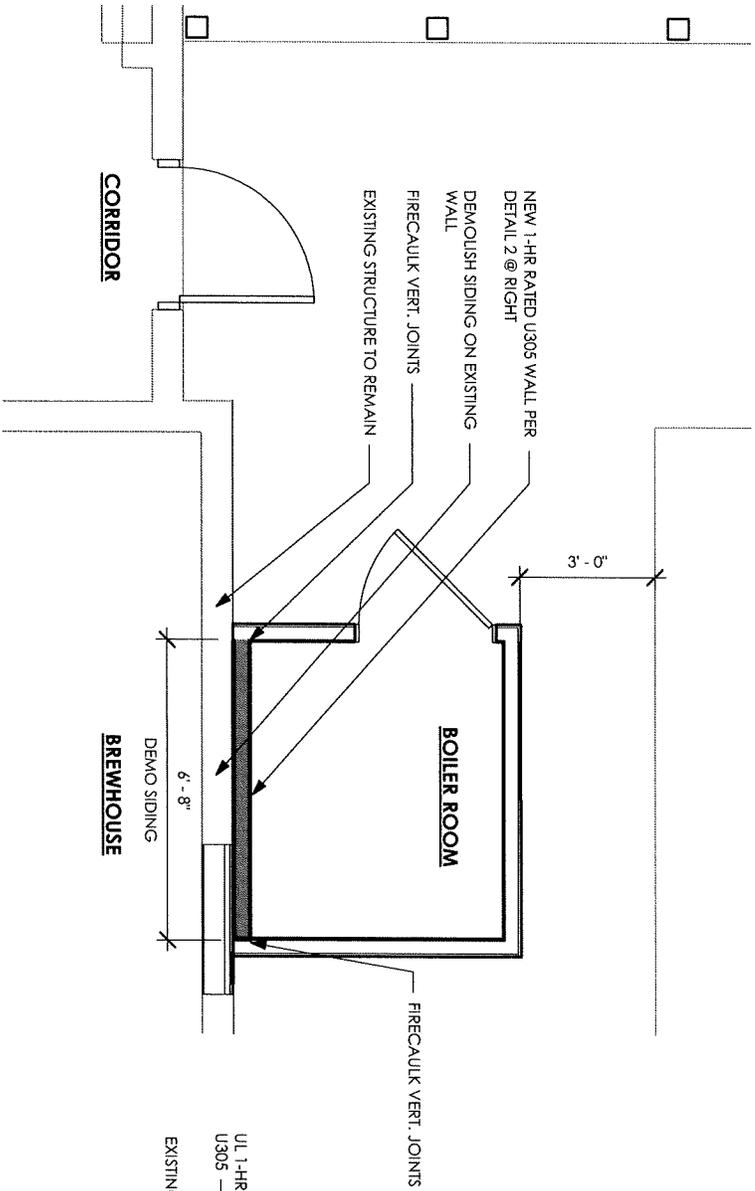
NEW WORK PLAN
 for
INTERIOR RENOVATIONS FIT OUT
 38450 HICKMAN RD, OCEAN VIEW, DE 19770
 Prepared For: HICKMAN ROAD NANOBREWERY

| REVISIONS | | |
|-----------|------|-------------|
| NO. | DATE | DESCRIPTION |
| | | |
| | | |
| | | |
| | | |

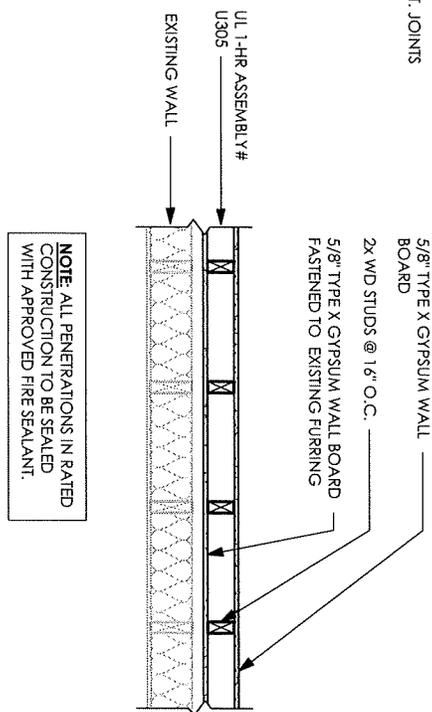
PERMIT DRAWINGS
 NOT FOR CONSTRUCTION

11/15/2021 11:51 AM
 38450 HICKMAN RD
 OCEAN VIEW, DE 19770
 302.438.1111
 703.232.8888
 10000 WOODBINE DRIVE
 SUITE 200
 GREENWOOD, DE 19934

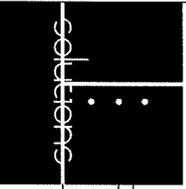




① ENLARGED PLAN AT BOILER ROOM
3/8" = 1'-0"



③ PROPOSED NEW WALL PLAN SECTION - UL DESIGN # U305 - 1 HR FR WALL
3/4" = 1'-0"

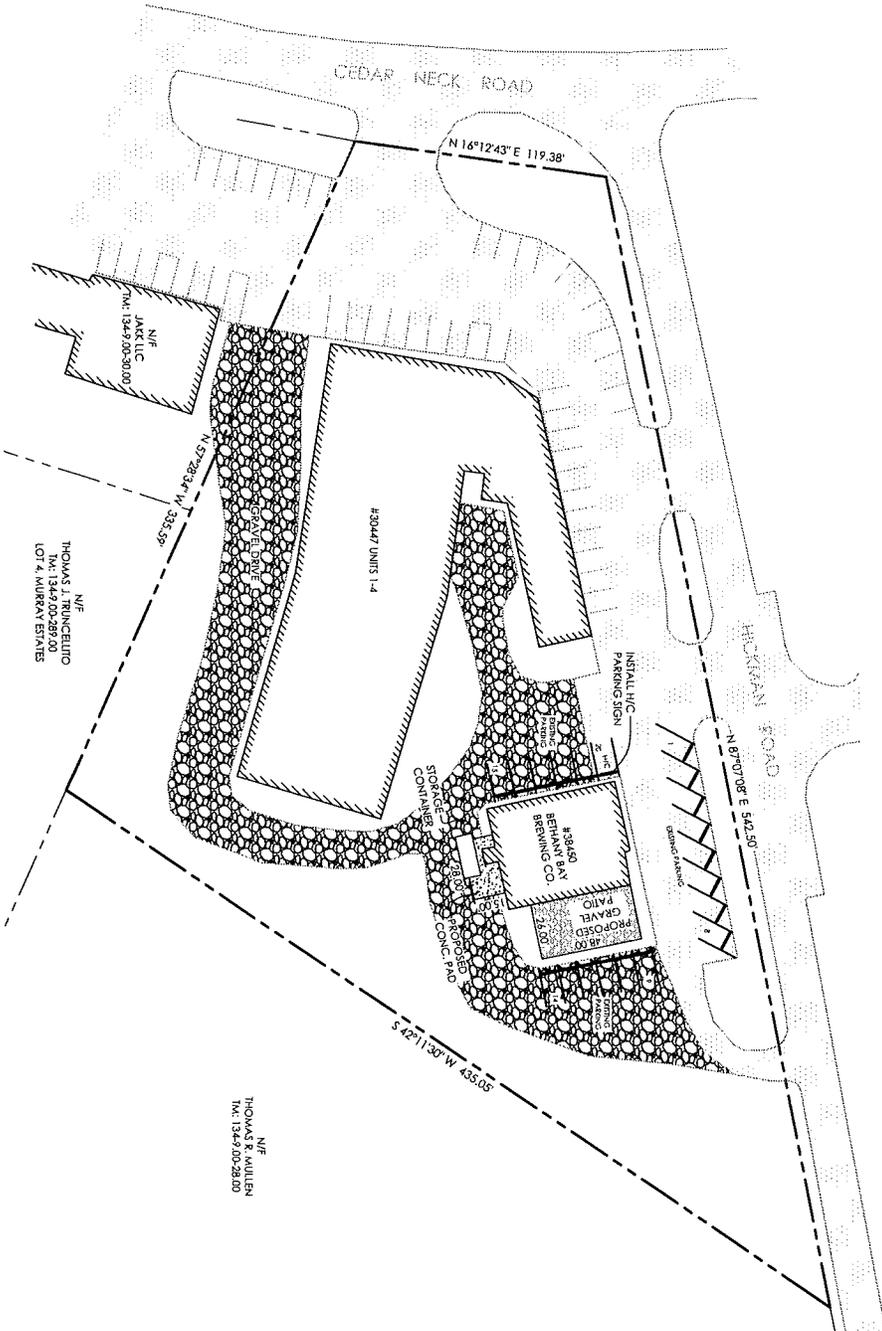


HICKMAN ROAD NANOBREWERY
INTERIOR RENOVATIONS FIT OUT

SKA-01
ENLARGED PLAN - BOILER ROOM

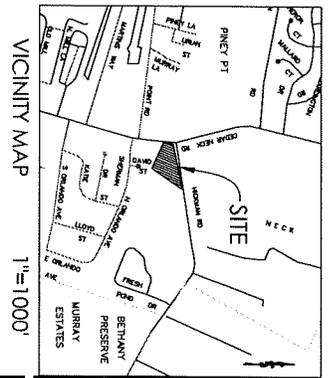
FOR FIRE MARSHAL REVIEW

| | |
|----------------|--------------|
| Checked by | SGR |
| Drawn by | JJH |
| Date | 11/16/2021 |
| Project number | G21025 |
| Scale | As indicated |



LEGEND

| | | | |
|--|-------------------------|--|------------------------------------|
| | EXISTING GRAVEL HATCH | | PROPOSED GRAVEL HATCH |
| | EXISTING CONCRETE HATCH | | EXISTING BITUMINOUS PAVEMENT HATCH |
| | PROPERTY LINE | | ADJACENT PROPERTY LINE |



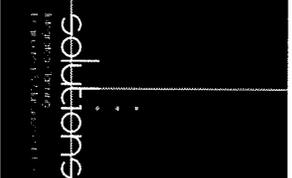
- GENERAL NOTES**
- CURRENT OWNER: JACK LLC, 3844 CEDAR NECK ROAD, OCEAN VIEW, DELAWARE 19770
 - TAX REFERENCE: 1249.0027.00
 - DEED REFERENCE: 4688 / 173
 - LOT AREA: 2.35 ACRES +/-
 - PREMISE ADDRESS: 38459 HICKMAN ROAD, OCEAN VIEW, DE 19770
 - PERMITS: C-1 GENERAL COMMERCIAL
 - PERIODIC USE: CRAFT BREWERY, RESTAURANT
 - PROPOSED USE: CRAFT BREWERY
 - PROPERTY LINES SHOWN HEREON WERE PLOTTED FROM THE CURRENT DEED DESCRIPTION. A BOUNDARY SURVEY HAS NOT BEEN PROVIDED.
 - BUILDING AREA, EXISTING: 2773 SF
 - PROPOSED: 2773 SF
 - PARKING SPACES, EXISTING: 20
 - PROPOSED: 20

SITE PLAN
for
BETHANY BAY BREWING COMPANY
38459 HICKMAN ROAD, BALTIMORE HUNDRED
OCEAN VIEW, SUSSEX COUNTY, DELAWARE

REVISIONS

| DATE | DESCRIPTION |
|------|-------------|
| | |
| | |
| | |
| | |

Feller Staff
A VINNY COMPANY SUBSIDIARY
5 ASSOCIATES, INC.
300 N. Redford St.
Columbus, OH 43215
3000 Market Mall Road
Salem, VA 24151
Tel: 614.292.8822
Fax: 614.292.8823
www.fellerstaff.com Copyright © 2021



Date: 03-24-2021
Job Number: G21025
Scale: 1" = 40'
Drawn By: RAM
Designed By:
Approved By: SWF

Sheet No.: 1

File Name: C:\1025 Site Plan.dwg



BAIRD
MANDALAS
BROCKSTEDT^{LLP}

EXHIBIT C

Zoning Code

Chapter 115. Zoning

Article XI. C-1 General Commercial District

§ 115-79. Conditional uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article **XXIV** of this chapter:

Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration

Aquariums, commercial

Beaches, commercial

Bus terminals

Cemeteries, including a crematorium if located at least 200 feet from the boundaries of the cemetery

Drive-in theaters

Exposition centers or fairgrounds

Heliports or helistops

Hospitals and sanitariums

Institutions, educational or philanthropic, including museums, art galleries and libraries

Outdoor amusement places and open-air drive-in theaters. Outdoor amusement places include, but are not limited to, batting cages, skating rinks, waterslides, miniature golf model racing tracks and similar recreational activities. Mobile or fixed-type cranes or lifting devices, not designed, not approved for, not manufactured for or not intended to carry, transport or in any fashion move individual(s) or person(s), shall be prohibited and shall not be used for amusement purposes.

[Added 8-11-1992 by Ord. No. 849; amended 3-30-1993 by Ord. No. 887; 8-22-2006 by Ord. No. 1870]

Public or governmental buildings and uses, including schools, parks, parkways, playgrounds and public boat landings

Public utilities or public service uses, buildings, generating or treatment plants, pumping or regulator stations, substations and transmission lines utilizing multilegged structures

Racetracks, any type, including horses, stock cars or drag strip

Recreation facilities, privately or commercially operated, such as a fishing or boating lake, picnic grounds or dude ranch, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment

Residential, business, commercial or industrial uses when the purposes of this chapter are more fully met by issuing a conditional use permit

Special events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. Special events not approved by the Director as

a permitted use under § 115-79 shall require a conditional use permit. All special events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

[Amended 5-1-1990 by Ord. No. 680; 11-10-1992 by Ord. No. 863; 8-20-2013 by Ord. No. 2316; 9-18-2018 by Ord. No. 2599]

Sports arenas or stadiums, commercial athletic fields or baseball parks

Swimming or tennis clubs, private, nonprofit or commercially operated

Chapter 115. Zoning

Article XI. C-1 General Commercial District

§ 115-82. Height, area and bulk requirements.

- A. Minimum lot sizes. Minimum lot sizes shall be as follows:

| Use | Area** (square feet) | Width* (feet) | Depth (feet) |
|------------------------|-------------------------|------------------|-----------------|
| Single-family dwelling | 10,000 | 75 | 100 |
| Other | 10,000 | 75 | 100 |

*NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet.

[Added 11-7-1989 by Ord. No. 632; amended 7-20-1999 by Ord. No. 1328]

**NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of 3/4 acre.

[Added 7-15-1997 by Ord. No. 1157]

- B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

| Use | Depth of Front Yard (feet) | Width of Side Yard (feet) | Depth of Rear Yard (feet) |
|----------------------------|--|------------------------------|------------------------------|
| Single-family dwelling | 40 (30)* | 10 | 10 |
| Other | 60** | 5* | 5* |
| Multifamily-type structure | (See Table II, included at the end of this chapter.) | | |

*NOTE: See also the table of district regulations at the end of this chapter.

**NOTE: See also § 115-194.1.

- C. Maximum height requirements. Maximum height requirements shall be as follows:
 [Amended 10-31-1995 by Ord. No. 1062]

| Use | Feet |
|------------------------|------|
| Single-family dwelling | 42 |
| Other | 42 |

Chapter 115. Zoning

Article XXII. Off-Street Parking

§ 115-162. Requirements.

- A. When any building or structure is hereafter erected or structurally altered or any building or structure is converted for any use listed below, accessory off-street parking spaces shall be provided as follows:

| Use | Parking Spaces Required |
|---|--|
| Single-family dwellings, single-family manufactured homes and apartments [Amended 3-25-1997 by Ord. No. 1131; 2-2-1999 by Ord. No. 1286; 5-2-2000 by Ord. No. 1371; 10-12-2010 by Ord. No. 2152] | 2 per family unit |
| Multifamily dwellings and townhouses [Amended 3-25-1997 by Ord. No. 1131; 2-2-1999 by Ord. No. 1286; 8-15-2006 by Ord. No. 1869] | See Subsection B . |
| Rooming, boarding- or tourist houses | 1 per rental room, plus 2 for the resident owner or manager |
| Hotels, motels or lodging inns | 1 1/2 per rental room or suite, plus 1 per 3 employees. If a restaurant open to the public is operated in connection with such use, additional off-street parking space meeting the minimum requirements for a restaurant must be provided |
| Eating places, taverns, bars and nightclubs | 1 for each 50 square feet assigned for patron use, plus 1 per 2 employees on the largest shift |
| Indoor commercial recreation | 1 per 150 square feet of floor area or 1 per 4 seats for patron use, whichever is applicable to the particular use |
| Offices, office buildings, banks or other financial offices | 1 per 200 square feet of floor area, exclusive of basement, if not used for office or customer service purposes |
| Retail stores or supermarkets | 1 per 200 square feet of floor area used for sales or display of merchandise purposes, plus 1 for each 2 employees on the largest shift |
| Beauty and barber shops or other personal services | 1 per 200 square feet of floor area |
| Shopping centers | 5 per 1,000 square feet of gross leasable area |
| Furniture and appliance stores | 1 per 400 square feet of floor area devoted to sales and display purposes |

Use**Parking Spaces Required**

Funeral homes

1 per 20 square feet of floor area used for seating accommodations, plus 1 per employee

Commercial nurseries, sales of outdoor equipment or furniture or sales of new and used cars, trucks, boats, manufactured homes and campers

2 per salesman during peak period of employment

[Amended 10-12-2010 by Ord. No. 2152]

Car wash establishments

Coin-do-it yourself

2 at waiting area for each lane; 1 at exit area for each lane

Coin-operated automatic drive-through

4 at waiting area for each lane; 2 at exit area for each lane

Employee-operated

8 at waiting area for each lane; 2 at exit area for each lane

Gasoline filling stations

2 for employees, plus 1 for each service bay

Automobile service and repair garages

1 per 500 square feet of floor area, plus 1 per employee during peak period of employment

Wholesaling or manufacturing

1 for every 2 employees on the major shift establishments

Day nurseries, day-care centers or private preschools or kindergartens

1 per 1,000 square feet of floor area, plus 1 per employee

Elementary and junior high or middle schools

3 per room used for administrative purposes, plus 1 per classroom, plus 1 for each 5 seats in the auditorium or gymnasium or other facility open to the public

Senior high, trade and vocational schools, colleges and universities

3 per room used for administrative offices, plus 1 for every 10 pupils enrolled, plus 1 for each 5 seats in the auditorium, gymnasium or other facility open to the public

Stadiums, assembly halls, theaters and community centers

1 per 4 fixed seats in the assembly area or for each 50 square feet of floor area for rooms having movable seats

Public libraries

1 per 400 square feet of floor area for public use, plus 1 per 2 employees

Nursing homes, convalescent homes and homes for the aged

1 for each 4 patient beds, plus 1 per 2 employees on the largest shift

Hospitals

1 for each 3 patient beds, except bassinets, plus 1 per medical staff member, plus 1 per 2 employees on the largest shift

Medical and dental clinics and offices

1 for each 2 employees, plus 4 per doctor or dentist

Churches or other places of worship

1 for each 4 seats

B. Multifamily dwellings and townhouses. The number of off-street parking spaces per dwelling unit shall be as indicated below:

[Amended 8-15-2006 by Ord. No. 1869]

- (1) Two spaces per dwelling unit plus 0.5 space for each bedroom over three bedrooms with a maximum of three spaces per dwelling unit. For one-bedroom and efficiency units, the required number of parking spaces will be 1.5 spaces per unit.

- (2) For each development in excess of 50 units, the required number of parking spaces shall be reduced by 15% from the required number of spaces set forth in Subsection **B(1)** above after those spaces required for the first 50 units have been provided; and for each development in excess of 200 units, the required number of parking spaces shall be reduced by 20% from the required number of spaces set forth in Subsection **B(1)** above after those spaces required for the first 200 units have been provided. In calculating the required parking, the number of one-bedroom and efficiency units shall be proportionally distributed if the development exceeds 50 units. When the total number of parking spaces required for a project has been reduced according to this section, the land area saved shall be used only for open space, landscaping or pedestrian walkways.
- (3) A minimum of one space per dwelling unit must be outside of a private enclosed garage and accessible to guests.
- (4) For the purposes of this section, an "efficiency unit" shall mean a one-story room, the size of which may not exceed 500 square feet, that is not susceptible to permanent division and that contains a kitchen or kitchenette and not more than one bathroom. An efficiency or room that is larger than 500 square feet is considered to be a "one-bedroom unit" for the purposes of this Code. An accessory room shall mean any room in a dwelling unit other than a bedroom, bathroom, kitchen or one living room, one dining room or living-dining room combination, including, but not necessarily limited to, a den, library, family room, game room, patio room, Florida room, bar, nursery, etc. Any room as defined as being an "accessory room" is to be treated in the same manner as a bedroom, and required parking shall be computed accordingly. This shall apply to all residential buildings except detached single-family dwellings.

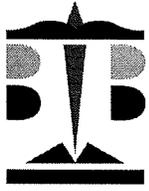
§ 115-165. Joint use and off-site facilities.

- A. All parking spaces required herein shall be located on the same lot with the building or use served.
- B. Shared parking. The Planning and Zoning Commission may authorize a reduction in the number of required parking spaces for multiple use developments or for uses that are located near one another with a maximum distance from the farthest parking space (or in the case of a parking garage, the pedestrian entrance to the garage) of 600 feet to the public entrances or a lighted, semi-weather-proofed covered walkway leading to the public entrances for commercial uses and with a maximum distance of 600 feet (or in the case of a parking garage, the pedestrian entrance to the garage) to the residential entrances that are being considered in the shared uses and, which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

[Amended 2-14-2006 by Ord. No. 1826^[1]]

- (1) Location. All uses that participate in a single shared parking plan shall be located on the same lot or on lots that share a common boundary. The shared parking lot shall be developed and used as though the uses on the lots were a single unit.
- (2) Shared parking study. A shared parking study signed and sealed by a Delaware licensed professional engineer in a form acceptable to the Planning Director shall be submitted which clearly establishes those uses that will utilize the shared spaces at different times of the day, week, month and year, including seasonal or mode adjustment factors. The study shall:
 - (a) Be based on the most current Urban Land Institute's shared parking study methodology or other generally accepted methodology;
 - (b) Address the size and type of activities, the composition of occupants, the rate of turnover for proposed shared spaces and the anticipated peak parking and traffic loads;
 - (c) Provide for a reduction by not more than 50% of the combined parking required for each use;

- (d) Provide for no reduction in the number of spaces reserved for persons with disabilities;
 - (e) Provide a plan to convert the reserved area to parking area if it is ever required; and
 - (f) Be reviewed and approved by the Planning Director and the Planning and Zoning Commission.
- (3) Agreement for shared parking plan. A shared parking plan shall be enforced through written agreement. An attested copy of the agreement between the owners of record shall be submitted to the Planning Director who shall forward a copy to the County Attorney for review and approval. Proof of recordation of the agreement shall be presented to the Planning Director prior to issuance of a certificate of occupancy. The agreement shall:
- (a) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;
 - (b) Provide a legal description of the land;
 - (c) Include a site plan showing the area of the parking parcel and the open space reserved area which would provide for future parking and any required stormwater management facilities;
 - (d) Describe the area of the parking parcel and designate and reserve it for shared parking unencumbered by any conditions which would interfere with its use;
 - (e) Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;
 - (f) Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;
 - (g) Describe the obligations of each party, including the maintenance responsibility to retain and develop reserved open space for additional parking spaces if the need arises;
 - (h) Incorporate the shared parking study by reference; and
 - (i) Describe the method by which the covenant shall, if necessary, be revised.
- (4) Change in use. Should any of the shared parking uses be changed, or should the Planning Director find that any of the conditions described in the approved shared parking study or agreement no longer exist or if the Planning Director and Planning and Zoning Commission determine that insufficient parking is an issue, the owner shall have the option of submitting a revised shared parking study and an amended shared parking agreement in accordance with the standards of this subsection or of providing the number of spaces required for each use as if computed separately. If the Planning Director determines that the revised shared parking study or agreement does not satisfy the off-street parking needs of the proposed uses, the shared parking request shall be denied, and no certificates of occupancy shall be issued until the full number of off-street parking spaces are provided.
- (5) Revocation of permits. Failure to comply with the shared parking provisions of this subsection shall constitute a violation of this Code and shall specifically be cause for revocation of a certificate of occupancy.
- [1] *Editor's Note: This ordinance also repealed former Subsection C, which immediately followed and provided for the establishment of shared parking spaces by covenant or agreement.*



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT D

Service Level Evaluation Request



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

April 12, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Lawrence Davies** proposed land use application, which we received on April 6, 2021. This application is for an approximately 2.75- acre parcel (Tax Parcels: 134-9.00-27.00). The subject land is located on the southeast corner of Hickman Road (Sussex Road 359) and Cedar Neck Road (Sussex Road 357). The subject land is currently zoned C-1 (General Commercial) and the applicant seeks a conditional use approval for a Microbrewery.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Hickman Road, is 370 vehicles per day. The annual average daily traffic volume along Cedar Neck Road from Hickman Road to Fred Hudson Road (Sussex Road 360), is 7,468 vehicles per day.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DelDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

DelDOT's description of this application as diminutive in the context of our agreement with the County regarding land development coordination assumes that the use of the site will be limited to the manufacture of beer and similar products. To the extent that ancillary bar or



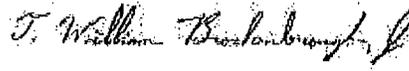
Mr. Jamie Whitehouse
Page 2 of 2
April 12, 2021

restaurant uses are also permitted, the subject development may generate more traffic. Even then, however, DelDOT does not anticipate this use generating enough trips to meet the minimum TIS warrants.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff
Enclosure

cc: Lawrence Davies, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

PLANNING & ZONING
Jamie Whitehouse, AICP, MRTPI
Director
(302) 855-7878 T
(302) 854-5079 F



Sussex County
DELAWARE
sussexcountyde.gov

Service Level Evaluation Request Form

This form shall be submitted to the Planning and Zoning Office and a response shall be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: 4/5/21

Site Information:

Site Address/Location: 38450 Hickman Road, Ocean View, DE 19970

Tax Parcel Number: 134-9.00-27.00

Current Zoning: C-1

Proposed Zoning: C-1

Land Use Classification: _____

Proposed Use(s): Microbrewery

Square footage of any proposed buildings or number of units: No new building; using existing building

Applicant Information:

Applicant's Name: Lawrence Davies

Applicant's Address: 58 Windjammer Drive

City: Ocean Pines State: MD Zip Code: 21811

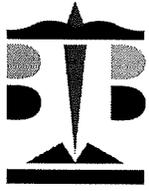
Applicant's Phone Number: (410) 430-6929

Applicant's e-mail address: brewinop@gmail.com



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

Last updated 3-12-20



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT E

Aerial Images

1992 Aerial Map



Legend

-  30447 Cedar Neck Rd
-  Big Fish Grill Ocean View
-  CHINCOTEAGUE NATIONAL WILDLIFE REFUGE
-  Custom Concepts Fiberglass & Repair
-  Feature 1



900 ft

Aerial View



Ellen Rice Fine Art Studio and...

Bayside

Petes WY

Big Fish Grill Ocean View

Hickman Rd

Bethany Bay Brewing Company

Hickloom Trunks 30447 Cedar Neck Rd

Hickman's Liquors - Beer, Wine & Spirits

Piney Point Rd

Piney Point Rd

N Orlando Ave

Hickman Rd

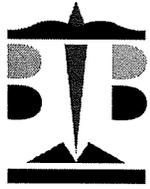
Legend

-  30447 Cedar Neck Rd
-  Bethany Bay Brewing Company
-  Big Fish Grill Ocean View
-  CHINCOTEAGUE NATIONAL WILDLIFE REFUGE
-  Ellen Rice Fine Art Studio and?
-  Feature 1

Google Earth

500 ft





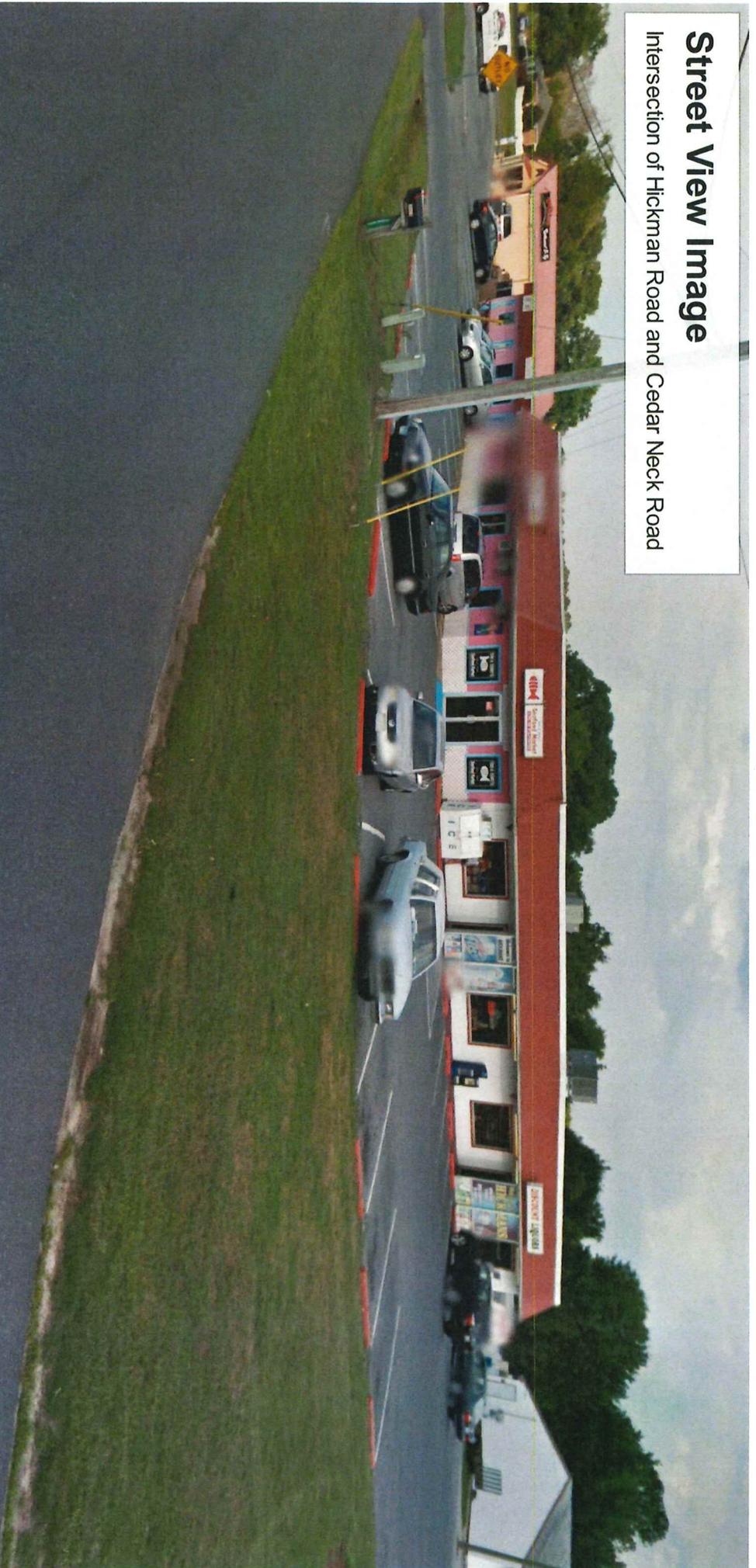
BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT F

Street Front Images

Street View Image

Intersection of Hickman Road and Cedar Neck Road



Legend

-  30447 Cedar Neck Rd
-  Big Fish Grill Ocean View
-  CHINCOTEAGUE NATIONAL WILDLIFE REFUGE
-  Custom Concepts Fiberglass & Repair
-  Feature 1

Google Earth

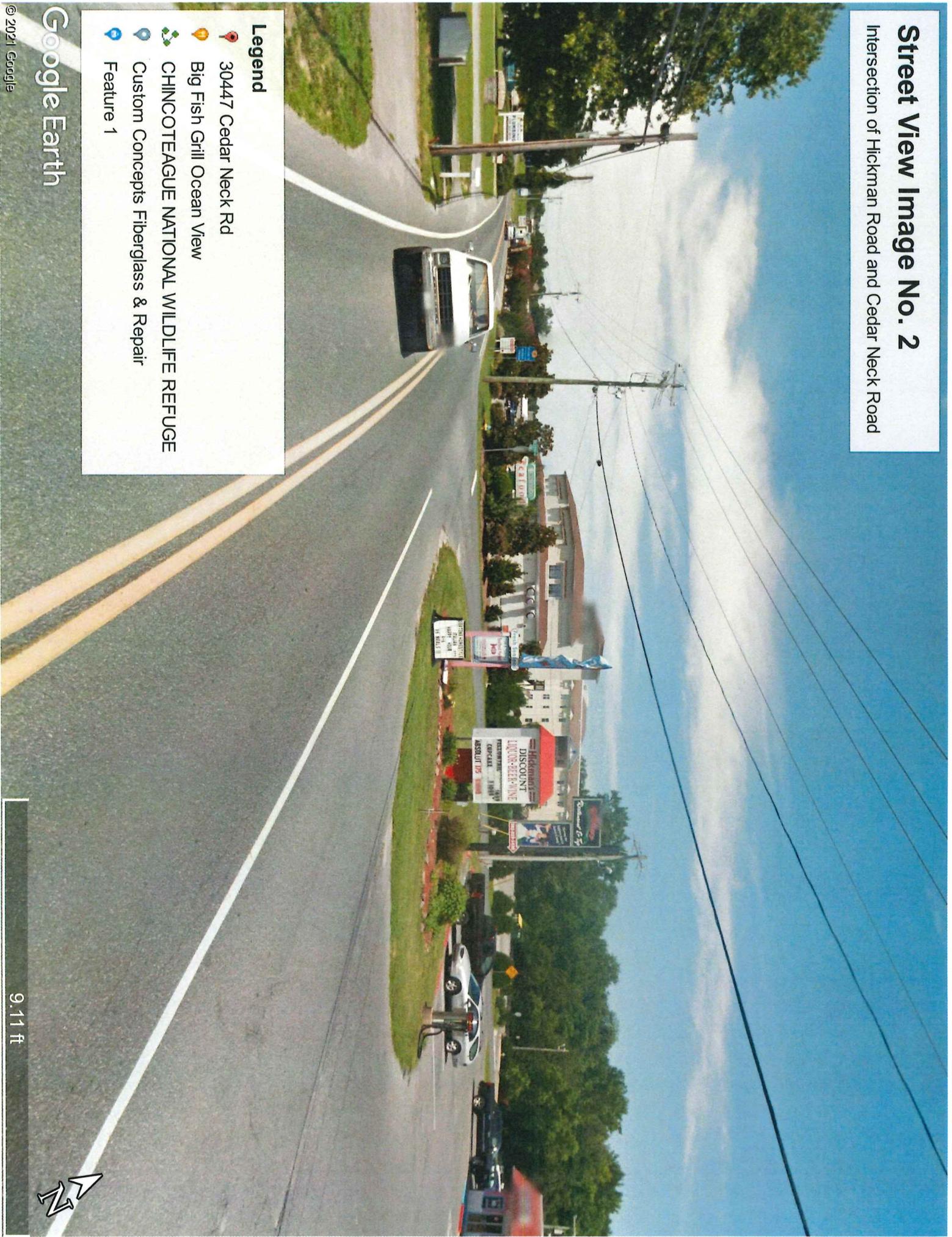
© 2021 Google

6.88 ft



Street View Image No. 2

Intersection of Hickman Road and Cedar Neck Road



Legend

-  30447 Cedar Neck Rd
-  Big Fish Grill Ocean View
-  CHINCOTEAGUE NATIONAL WILDLIFE REFUGE
-  Custom Concepts Fiberglass & Repair
-  Feature 1

Google Earth

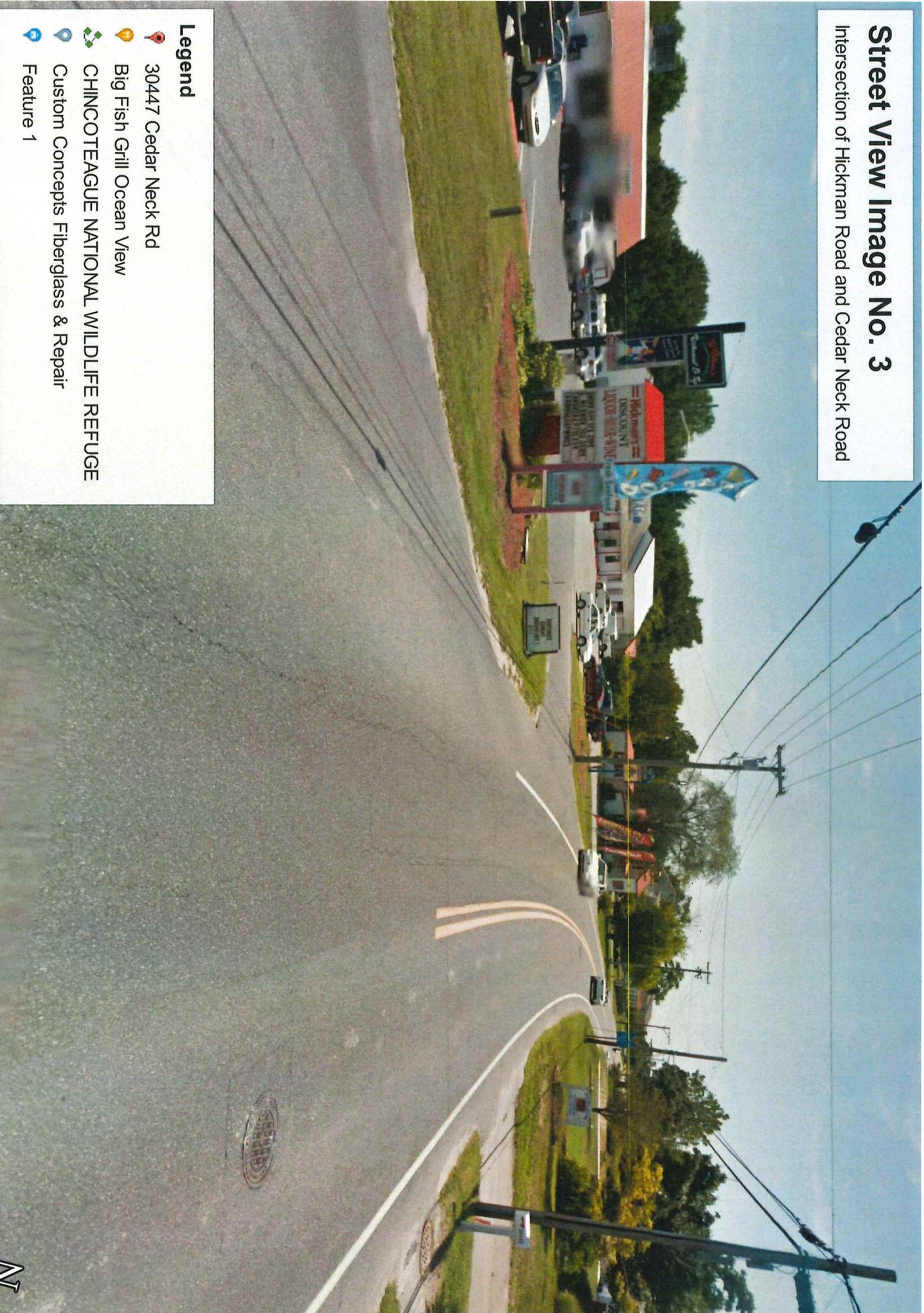
© 2021 Google

9.11 ft



Street View Image No. 3

Intersection of Hickman Road and Cedar Neck Road



Legend

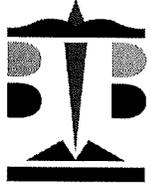
-  30447 Cedar Neck Rd
-  Big Fish Grill Ocean View
-  CHINCOTEAGUE NATIONAL WILDLIFE REFUGE
-  Custom Concepts Fiberglass & Repair
-  Feature 1

Google Earth

© 2021 Google

5.58 ft





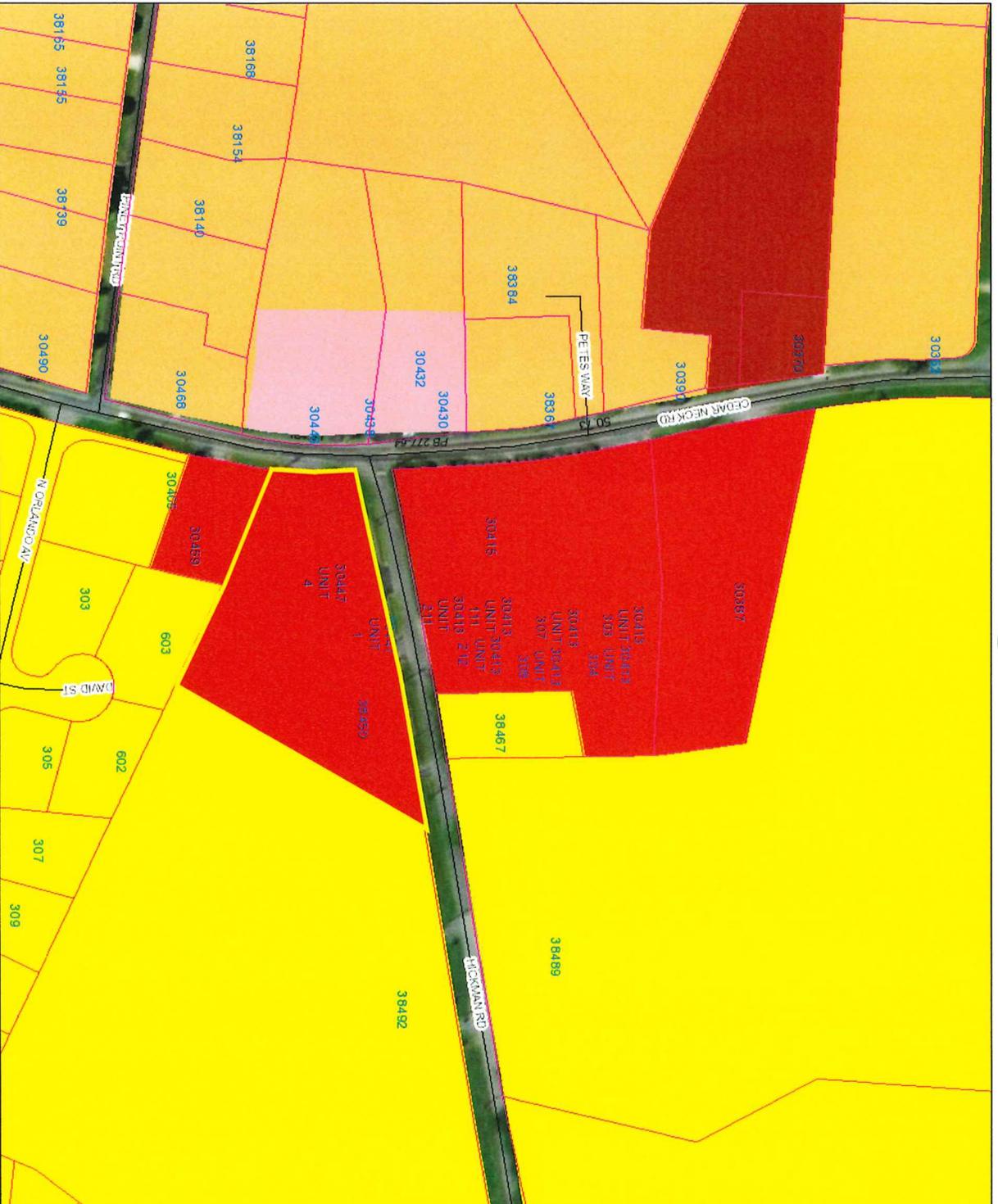
BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT G

Zoning District Map



Sussex County



| | |
|------------------------|---------------------|
| PIN: | 134-9,00-27,00 |
| Owner Name | JAKK LLC |
| Book | 4686 |
| Mailing Address | 30447 CEDAR NECK RD |
| City | OCEAN VIEW |
| State | DE |
| Description | RD OCEAN VIEW TO |
| Description 2 | COTTON PATCH HILLS |
| Description 3 | N/A |
| Land Code | |

- polygon:layer**
Override 1
- polygon:layer**
Override 1
- 911 Address**
- 911 Address**
- Streets**



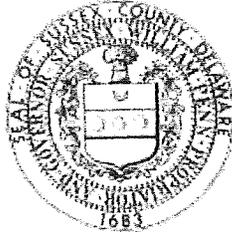


BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT H

Land Use and Permitting History

CONSTABLE
LESTER R. SHAFFER
CHIEF COUNTY CONSTABLE
(302) 855-7813 F
(302) 855-7798 F



Sussex County
DELAWARE
sussexcountycde.gov

NOTICE OF VIOLATION

August 24, 2021

JAKK LLC
30447 CEDAR NECK RD
OCEAN VIEW, DE 19970

REFERENCE NUMBER: 5247
PARCEL: 134-9.00-27.00
PARCEL DESCRIPTION: RD OCEAN VIEW TO COTTON PATCH HILLS
LOCATION: 30447 CEDAR NECK ROAD UNIT 1 OCEAN VIEW

Violation: §115-79 FAILURE TO OBTAIN CONDITIONAL USE.

On 08-24-21 a site visit was conducted by the Sussex County Constable's Office. Based on observations made at that time, there is reason to believe a violation of the County Code exists on the above parcel and is described as:

Failure to obtain a conditional use for Micro Brewery on the property.

Within fifteen (15) calendar days, the owner or occupant is required to comply with the County Code. Failure to comply will result in a summons issued for you to appear in the Justice of the Peace Court or other court of competent jurisdiction as may be determined by Sussex County. Violations are subject to the remedies in the Sussex County Code outlined below, and such other remedies as may be available to Sussex County in law or in equity.

§ 115-229 Violations and penalties.

Any person or corporation who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$100, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who has assisted in the commission of any such violation shall be guilty of a separate offense and, upon conviction thereof, shall be fined as hereinbefore provided.

If you have questions regarding this violation, please contact the office to discuss. If you have any documentation that disputes the preliminary findings, please provide copies to the Planning & Zoning Department for their review. **Please include this notice with any documentation you present.**

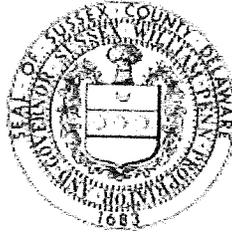
The office is in the County Administration Building, 2 The Circle, Georgetown, Delaware. The office hours are 8:30AM – 4:30PM, Monday through Friday.

This Notice of Violation is being issued under the authority of the Sussex County Planning and Zoning Director.

ALAN SHIELDS
Sussex County Constable

CONSTABLE
LESTER R. SHAFFER
CHIEF COUNTY CONSTABLE

(302) 855-7819 T
(302) 855-7798 F



Sussex County
DELAWARE
sussexcountyde.gov

NOTICE OF VIOLATION

August 24, 2021

JAKK LLC
30447 CEDAR NECK RD
OCEAN VIEW, DE 19970

REFERENCE NUMBER: 5247
PARCEL: 134-9.00-27.00
PARCEL DESCRIPTION: RD OCEAN VIEW TO COTTON PATCH HILLS
LOCATION: 30447 CEDAR NECK ROAD UNIT 1 OCEAN VIEW

Violation: §115-224. Building without a permit.

The County Code requires a permit to be obtained for the placement or improvement of any structure. The permit will indicate the required setbacks for the structure or improvement.

On 08-24-21 a site visit was conducted by the Sussex County Constable's Office. Based on observations made at that time, there is reason to believe a violation of the County Code exists on the above parcel and is described as:

Building without a permit for the interior remodel.

Within five (5) business days, the owner or occupant is required to obtain a permit for the above described structure and shall discontinue all construction activity until a valid building permit has been issued. Failure to comply will result in a summons issued for you to appear in the Justice of the Peace Court or other court of competent jurisdiction as may be determined by Sussex County. Violations are subject to the remedies in the Sussex County Code outlined below, and such other remedies as may be available to Sussex County in law or in equity.

§ 115-229 Violations and penalties.

Any person or corporation who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$100, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner

or owners of any building or premises or part thereof where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who has assisted in the commission of any such violation shall be guilty of a separate offense and, upon conviction thereof, shall be fined as hereinbefore provided.

If you have questions regarding this violation, please contact the office to discuss. If you have any documentation that disputes the preliminary findings, please provide copies to the Planning & Zoning Department for their review. **Please include this notice with any documentation you present.**

The office is in the County Administration Building, 2 The Circle, Georgetown, Delaware. The office hours are 8:30AM – 4:30PM, Monday through Friday.

This Notice of Violation is being issued under the authority of the Sussex County Finance Director and Sussex County Planning and Zoning Director.

ALAN SHIELDS
Sussex County Constable



Larry Davies <brewinop@gmail.com>

RE: 134-9.00-27.00 Microbrewery

6 messages

Jennifer Norwood <jnorwood@sussexcountyde.gov>

Wed, Aug 25, 2021 at 1:26 PM

To: Alan Shields <alan.shields@sussexcountyde.gov>, Andy Wright <awright@sussexcountyde.gov>
Cc: "brewinop@gmail.com" <brewinop@gmail.com>

Alan,

I am reaching out to let you know that Mr. Davies has been in contact with our Department regarding his Conditional Use and building permit. I told Mr. Davies I would email an update for your records regarding the violation notice. Since he has contacted Building Code and Planning and Zoning regarding his building permit within the 5-days and cannot obtain a building permit until the Conditional Use process is completed, will he be subject to violation fees.

Thanks,

Jenny

Jennifer Norwood

Jennifer Norwood

Planning Manager

Planning and Zoning Department

[2 The Circle](#)

PO Box 417

Georgetown, DE 19947

Office Phone (302)855-7878

Direct Line (302)858-5501

[Jnorwood@sussexcountyde.gov](mailto:jnorwood@sussexcountyde.gov)**Alan Shields** <alan.shields@sussexcountyde.gov>

Wed, Aug 25, 2021 at 1:50 PM

To: Jennifer Norwood <jnorwood@sussexcountyde.gov>, Andy Wright <awright@sussexcountyde.gov>, Lester Shaffer <lester.shaffer@sussexcountyde.gov>
Cc: "brewinop@gmail.com" <brewinop@gmail.com>

Case 5247 Jakk LLC

Thank you Jennifer for the update. I did explain to Mr. Davies that as long he was actively pursuing compliance with the County that we would not issue fines. However I added the Chief Constable in this thread as he would be the deciding factor.

I will continue to monitor this process until a decision has been made per the hearing which has been set for in December.

Thanks again.

Alan W. Shields

Code Enforcement Officer II

County Constable's Office

Georgetown, De. 302-855-7819 Ext. 1711

9/13/21, 11:28 AM

Gmail - RE: 134-9.00-27.00 Microbrewery

Sussex County Government

[Quoted text hidden]

Larry Davies <brewinop@gmail.com>
To: Pete Backus <epbackus@gmail.com>

Wed, Aug 25, 2021 at 1:51 PM

FYI

[Quoted text hidden]

Larry Davies <brewinop@gmail.com>
To: "ayan484@yahoo.com" <ayan484@yahoo.com>

Thu, Aug 26, 2021 at 9:34 AM

----- Forwarded message -----

From: **Jennifer Norwood** <jnorwood@sussexcountyde.gov>
Date: Wed, Aug 25, 2021 at 1:26 PM
Subject: RE: 134-9.00-27.00 Microbrewery
To: Alan Shields <alan.shields@sussexcountyde.gov>, Andy Wright <awright@sussexcountyde.gov>
CC: brewinop@gmail.com <brewinop@gmail.com>

[Quoted text hidden]

Larry Davies <brewinop@gmail.com>
To: Pete Backus <epbackus@gmail.com>

Sun, Aug 29, 2021 at 8:09 AM

----- Forwarded message -----

From: **Jennifer Norwood** <jnorwood@sussexcountyde.gov>
Date: Wed, Aug 25, 2021 at 1:26 PM
Subject: RE: 134-9.00-27.00 Microbrewery
To: Alan Shields <alan.shields@sussexcountyde.gov>, Andy Wright <awright@sussexcountyde.gov>
CC: brewinop@gmail.com <brewinop@gmail.com>

[Quoted text hidden]

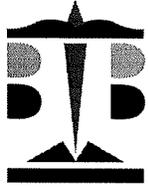
Larry Davies <brewinop@gmail.com>
To: Larry Davies <brewinop@gmail.com>

Mon, Aug 30, 2021 at 7:03 PM

----- Forwarded message -----

From: **Jennifer Norwood** <jnorwood@sussexcountyde.gov>
Date: Wed, Aug 25, 2021 at 1:26 PM
Subject: RE: 134-9.00-27.00 Microbrewery
To: Alan Shields <alan.shields@sussexcountyde.gov>, Andy Wright <awright@sussexcountyde.gov>
CC: brewinop@gmail.com <brewinop@gmail.com>

[Quoted text hidden]



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT I

Letters of Support

Christin Scott

From: webmaster@sussexcountyde.gov on behalf of Sussex County DE
<webmaster@sussexcountyde.gov>
Sent: Tuesday, September 21, 2021 7:52 PM
To: Planning and Zoning
Subject: Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, September 21, 2021 - 7:51pm

Name: David Riseberg

Email address: drise64@gmail.com

Phone number: 410-300-8704

Subject: Bethany Bay Brewing Company

Message: Hello I am writing in support of the zoning application for Bethany Bay Brewing Company. Breweries have become an integral part of many communities in the past few years. They offer a pleasant family friendly gathering place not only for the appreciation of beer but also for people to congregate and enjoy each other's company and to make new friends. They offer a very different environment than bars. Ocean View and the nearby area has no breweries and while I look forward to the new SoDel brewery I believe that will be more of a restaurant feel. I support all efforts to allow the opening of Bethany Bay Brewing Company as soon as is feasible. Thank you

Christin Scott

From: webmaster@sussexcountyde.gov on behalf of Sussex County DE
<webmaster@sussexcountyde.gov>
Sent: Tuesday, September 21, 2021 8:16 PM
To: Planning and Zoning
Subject: Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, September 21, 2021 - 8:16pm

Name: Sharon Alm

Email address: sharonbalm@hotmail.com

Phone number: 2405067513

Subject: Permit for Bethany Bay Brewing Company

Message: I am writing in support of the permit request submitted by the subject business. I live nearby and I support this request and believe this restaurant and brewery will be a great asset to the community. Thank you, Sharon Alm



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT J

Proposed Conditions of Approval

Proposed Conditions of Approval
Bethany Bay Brewing Company C/U 2282

- A. The Applicant must comply with all State and Federal requirements for the brewery and tasting room operations.
- B. The hours of operation for public access to the microbrewery shall be between 11:00 a.m. and 10:00 p.m., Monday through Sunday.
- C. There shall be no outdoor music on the patio.
- D. Signage shall comply with the sign requirements of the underlying C-1 General Commercial District.
- E. The use shall comply with all parking requirements contained in the Sussex County Code.
- F. Any waste or spent materials from the brewing operation shall be stored inside the building until hauled away by appropriate means.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Sussex County Planning and Zoning Commission
2 The Circle, PO Box 417
Georgetown, DE 19947

Re: CU 2282
Lawrence Davies/Bethany Bay Brewing Company

To Whom it May Concern,

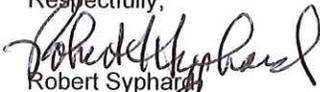
I'm retired and a full time resident of Ocean View. I'm writing this letter in support of the proposed Bethany Bay Brewing Company.

As a former city planner I handled a request to establish a microbrewery in the Town of Bel Air, Harford County, Maryland. The location the brewer chose was very similar to that of the Bethany Bay Brewing Company request: a mixed-use area in close proximity to an existing hiker-biker trail. My office worked closely with the business owner, guiding him through the required Special Exception process while addressing various concerns expressed by area residents (noise, hours of operation, parking, etc.). The microbrewery was approved, opened, and has since flourished. The brewery has become a trail-users gathering space, is supported by area residents and businesses, and has become an economic asset for the community. The use has helped spur additional interest in improving and expanding the hiker-biker opportunities in the area.

I've had the opportunity to speak with Mr. Davies on several occasions regarding the proposed brewery. On a daily basis I watch people access Fresh Pond Park for hiking, biking, hunting and fishing. I firmly believe Bethany Bay Brewing Company will be a great addition to the community, and its location will draw attention to further efforts to improve existing recreational activities provided at Fresh Pond Park. I fully support Mr. Davies' vision and trust the County will determine the use meets all requisite zoning requirements.

I appreciate the opportunity to comment on this proposed use.

Respectfully,


Robert Syphard
30740 Panyard Aly
Ocean View, DE 19970

RECEIVED

NOV 24 2021

SUSSEX COUNTY
PLANNING & ZONING

Christin Scott

From: webmaster@sussexcountyde.gov on behalf of Sussex County DE
<webmaster@sussexcountyde.gov>
Sent: Tuesday, September 21, 2021 7:52 PM
To: Planning and Zoning
Subject: Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, September 21, 2021 - 7:51pm

Name: David Riseberg

Email address: drise64@gmail.com

Phone number: 410-300-8704

Subject: Bethany Bay Brewing Company

Message: Hello I am writing in support of the zoning application for Bethany Bay Brewing Company. Breweries have become an integral part of many communities in the past few years. They offer a pleasant family friendly gathering place not only for the appreciation of beer but also for people to congregate and enjoy each other's company and to make new friends. They offer a very different environment than bars. Ocean View and the nearby area has no breweries and while I look forward to the new SoDel brewery I believe that will be more of a restaurant feel. I support all efforts to allow the opening of Bethany Bay Brewing Company as soon as is feasible. Thank you

Christin Scott

From: webmaster@sussexcountyde.gov on behalf of Sussex County DE
<webmaster@sussexcountyde.gov>
Sent: Tuesday, September 21, 2021 8:16 PM
To: Planning and Zoning
Subject: Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, September 21, 2021 - 8:16pm

Name: Sharon Alm

Email address: sharonbalm@hotmail.com

Phone number: 2405067513

Subject: Permit for Bethany Bay Brewing Company

Message: I am writing in support of the permit request submitted by the subject business. I live nearby and I support this request and believe this restaurant and brewery will be a great asset to the community. Thank you, Sharon Alm

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 9th, 2021

Application: CZ 1940 Community Bank Delaware c/o Stephen W. Spence

Applicant: Community Bank Delaware c/o Stephen W. Spence
16982 Kings Highway
Lewes, DE 19958

Owner: Sandy Trantino Norwood
P.O. Box 205
Milton, DE 19968

Site Location: The property is lying on the southwest corner of the intersection of
Indian Mission Rd. (Rt. 5) and John J. Williams Hwy. (Rt. 24)

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Zoning: Medium Commercial (C-2) Zoning District

Comprehensive Land
Use Plan Reference: Coastal Area & Commercial Area

Councilmanic
District: Mr. Hudson

School District: Indian River School District

Fire District: Indian River Fire Department

Sewer: Sussex County

Water: Tidewater

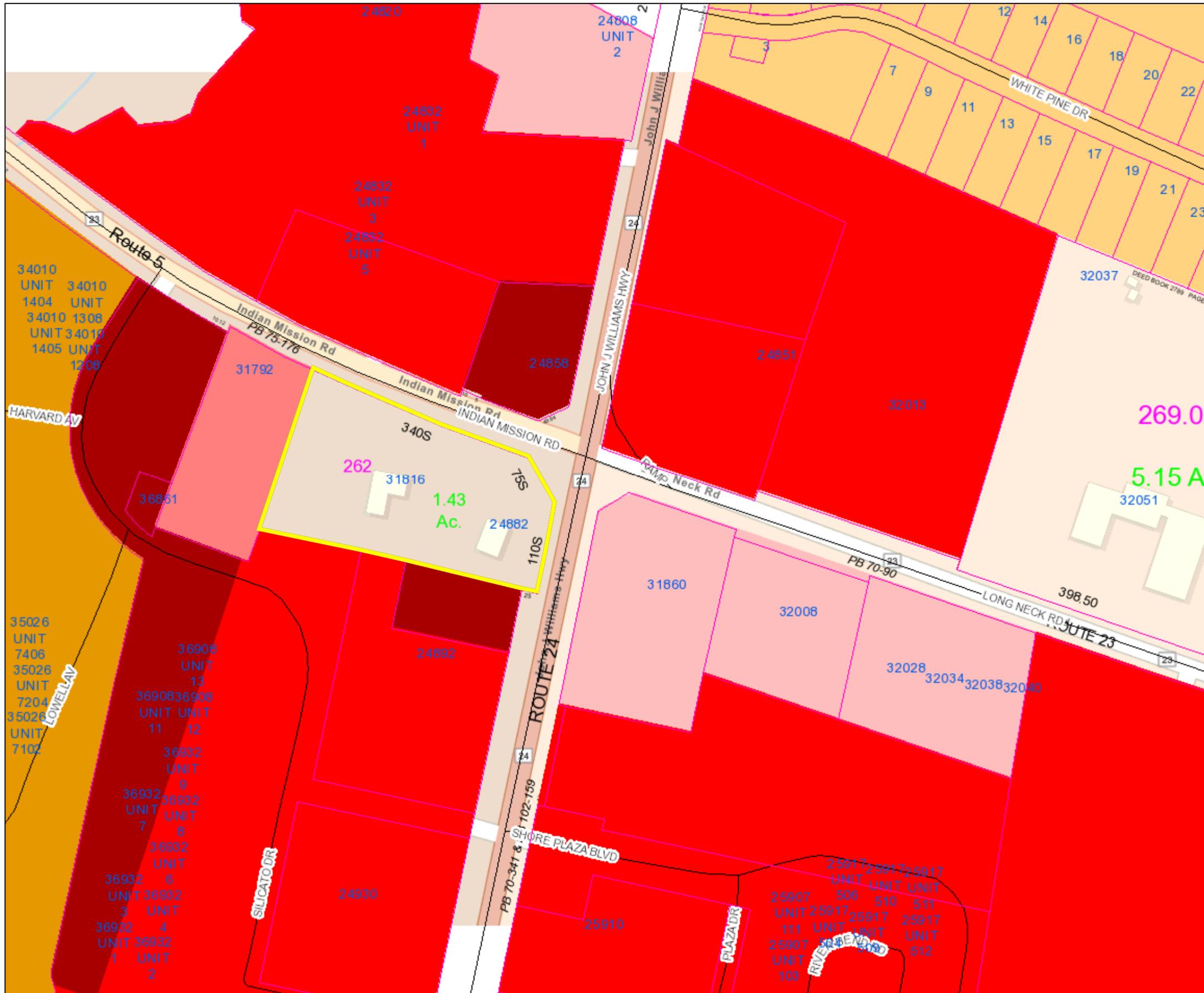
Site Area: 1.76 acres +/-

Tax Map ID.: 234-23.00-262.00





Sussex County

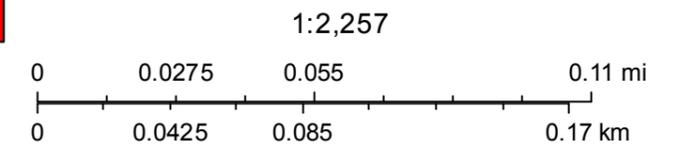


| | |
|------------------------|---------------------------|
| PIN: | 234-23.00-262.00 |
| Owner Name | NORWOOD TRANTINO SANDY |
| Book | 1892 |
| Mailing Address | PO BOX 205 |
| City | MILTON |
| State | DE |
| Description | RD HARBESON TO |
| Description 2 | MILLSBORO |
| Description 3 | N/A |
| Land Code | |

- polygonLayer**

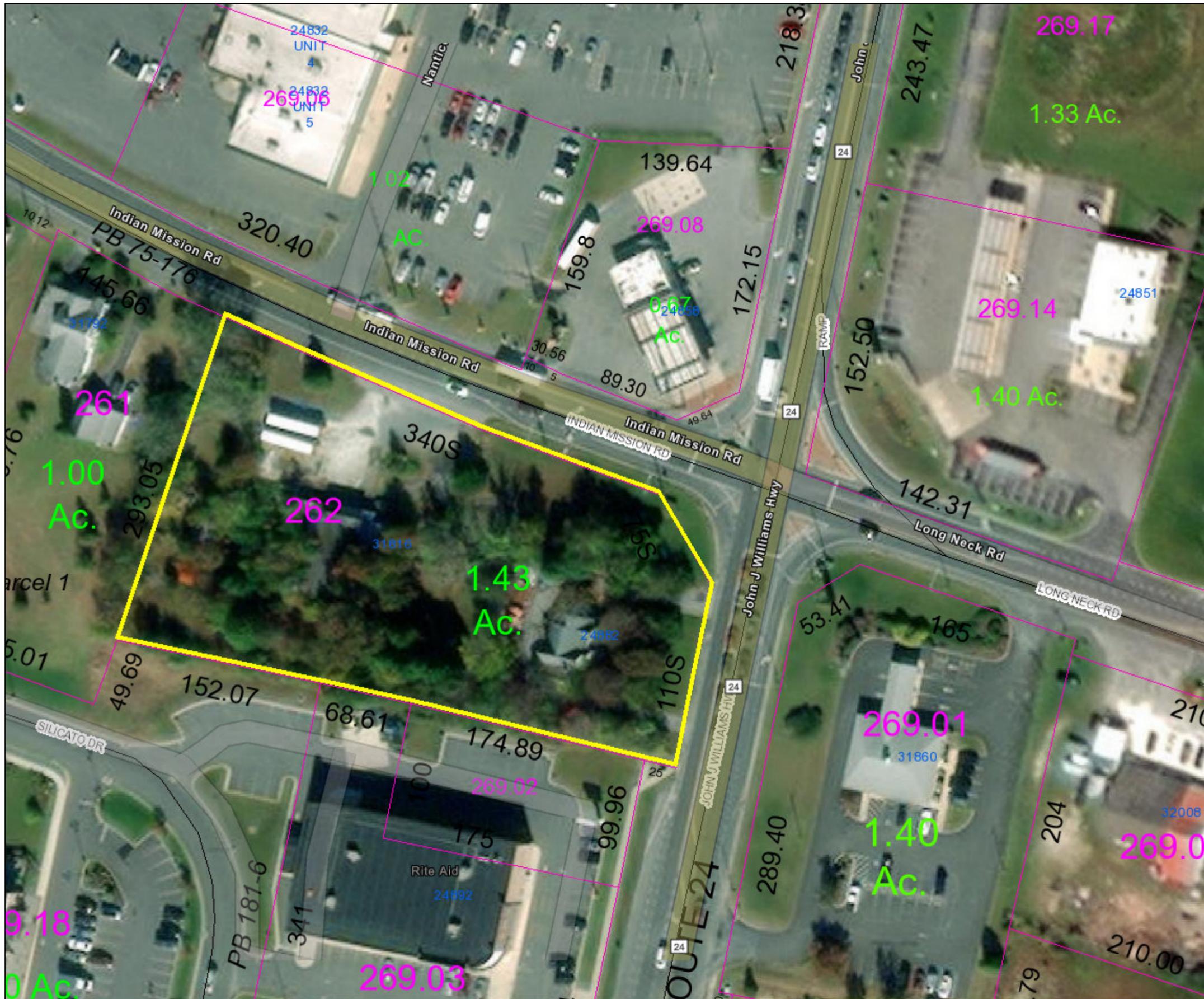
 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- 911 Address
- Streets



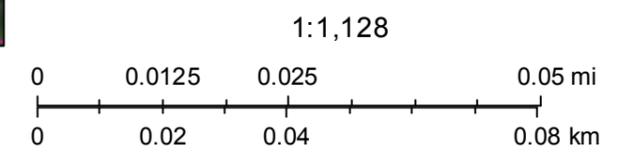


Sussex County



| | |
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| Description 2 | MILLSBORO |
| Description 3 | N/A |
| Land Code | |

- polygonLayer**
 - Override 1
- polygonLayer**
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
 - Tax Ditch Channel
 - Pond Feature
 - Special Access ROW
 - Extent of Right-of-Way
 - Municipal Boundaries
 - TID



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney
Date: December 2, 2021
RE: Staff Analysis for CZ 1940 Community Bank Delaware

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1940 Community Bank Delaware to be reviewed during the December 9, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 234-23.00-262.00 to allow for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2). The property is lying on the southwest corner of the intersection of Indian Mission Road (Rt. 5) and John J. Williams Highway (Rt. 24). The parcel to be rezoned contains 1.76 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area" and "Commercial Area." The properties to the north, south, east, and west also have the land use designation of "Commercial Area" with properties directly adjacent to the south having a land use designation of "Coastal Area" and "Commercial Area". The properties further north, south, east, and west have a land use designation of "Coastal Area".

As outlined in the 2018 Sussex County Comprehensive Plan, the Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. Commercial Areas are areas that include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas.



The property is zoned Agricultural Residential (AR-1) Zoning District. The adjacent parcel to the north is zoned Medium Commercial (C-2) Zoning District. The adjacent property to the south is split zoned General Commercial (C-1) Zoning District and Commercial Residential (CR-1) Zoning District. Across Indian Mission Road and John J. Williams Highway, properties are zoned General Commercial (C-1) Zoning District, Commercial Residential (CR-1) Zoning District, and Neighborhood Business (B-1) Zoning District.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Medium Commercial District (C-2) is listed as an applicable zoning district in the “Coastal Area” and “Commercial Area”.

Since 2011, there have been three (3) Change of Zone applications within a 1-mile radius of the application site. Change of Zone 1788 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential Zoning District (CR-1) was approved by the Sussex County Council on Tuesday, December 1, 2015 through Ordinance No. 2427. Change of Zone 1880 for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2) was approved by the Sussex County Council on Tuesday, July 16, 2019 through Ordinance No. 2669. And Change of Zone 1791 for a change of zone from an Agricultural Residential Zoning District (AR-1) and General Commercial Zoning District (C-1) to a High-Density Residential Zoning District (HR-1) was approved by the Sussex County Council on Tuesday, April 12, 2016 through Ordinance No. 2444.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2) could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

File #: CZ 1940
202102873

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Southwest Corner of Rt. 5 (Indian Mission Rd.) and Rt. 24 (John J. Hwy.) Int.

Type of Conditional Use Requested:

N/A

Tax Map #: 234-23.00-262.00

Size of Parcel(s): 1.7 +/- ACRES

Current Zoning: AR-1

Proposed Zoning: C-2

Size of Building: TBD

Land Use Classification: Commercial/Coastal (Level 1/2)

Water Provider: Public - Tidewater

Sewer Provider: Public - Sussex County

Applicant Information

Applicant Name: Community Bank Delaware c/o Stephen W. Spence

Applicant Address: 16982 Kings Highway

City: Lewes

State: DE

Zip Code: 19958

Phone #: (302) 645-2262

E-mail: sws@bmbde.com

Owner Information

Owner Name: _____

Owner Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: MARK H DAVIDSON | PENNONI

Agent/Attorney/Engineer Address: 18072 DAVIDSON DRIVE

City: MILTON

State: DE

Zip Code: 19968

Phone #: (302) 684-8030

E-mail: MDAVIDSON@PENNONI.COM



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- Completed Application
- Provide eight (8) copies of the Site Plan or Survey of the property
 - o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - o Provide a PDF of Plans (may be e-mailed to a staff member)
 - o Deed or Legal description
- Provide Fee \$500.00
- Optional - Additional information for the Commission/Council to consider (ex: architectural elevations, photos, exhibit books, etc.) if provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.
- De/ DOT Service Level Evaluation Request Response
- PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

Stephen W. Spence Digitally signed by Stephen W. Spence
Date: 2021.02.24 16:43:01 -0500 Date: 2/24/21

 Date: 2/25/2021
ROBERT G. GIBBS, ESQ.
ATTORNEY AT LAW

For office use only:
 Date Submitted: 2/26/21 Fee: \$500.00 Check #: 2349
 Staff accepting application: 205 Application & Case #: CZ 1940
 Location of property: _____

Subdivision: _____
 Date of PC Hearing: _____ Recommendation of PC Commission: _____
 Date of CC Hearing: _____ Decision of CC: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

February 25, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Community Bank Delaware c/o Stephen W. Spence** proposed land use application, which we received on January 8, 2021. This application is for an approximately 1.43- acre parcel (Tax Parcel: 234-23.00-262.00). The subject land is located southwest corner of Indian Mission Road (State Route 5) and John J. Williams Highway (State Route 24). The subject land is currently zoned AR-1 (Agriculture Residential) with a proposed zoning of C-2 (Medium Commercial). The applicant seeks to build a drive-in bank of 3,000 to 10,000 square feet and 1 to 2 floors.

Per the 2019 Delaware Vehicle Volume Summary, the average daily traffic volumes on average day and on an average summer day along Indian Mission Road, from John J. Williams Highway to Harmons Hill Road (Road 302), are 6,740 and 8,666 vehicles per day, respectively. The average daily traffic volumes on average day and on an average summer day along the segment of John J. Williams Highway where the subject land is located, which is from Mt. Joy (Road 297) to Indian Mission Road, are 18,682 and 24,044 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use will generate more than 50 vehicle trips per peak hour or 500 vehicle trips per day, and would be considered to have a **Minor** impact to the local area roadways. In this instance, the Department considers a Minor impact to be when a proposed land use would generate more than either 50 vehicle trips per peak hour and / or 500 vehicle trips per day but fewer than 200 vehicle trips per a weekly peak hour and 2,000 vehicle trips per day. Because of this impact, we recommend that the applicant be required to perform a Traffic Impact Study (TIS) for the subject application. However, our Development Coordination Manual provides that where a TIS is required only because the volume warrants are met, and the projected trip generation will be fewer than 200 vehicle trips per a weekly peak hour and fewer than 2,000 vehicle trips per day, DelDOT may permit the developer to pay an Area-Wide Study Fee of \$10 per daily trip in lieu of doing a TIS. For this application, if the County were agreeable, we would permit the developer to pay an Area-wide Study Fee.



Mr. Jamie Whitehouse
Page 2 of 2
February 25, 2021

If the County approves this application, the applicant should be reminded that DeIDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.

Please contact Ms. Annamaria Furrato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:afm

cc: Community Bank Delaware c/o Stephen W. Spence, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furrato, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CZ 1940 Community Bank Delaware c/o Stephen W. Spence**

APPLICANT: **Community Bank Delaware c/o Stephen W. Spence**

FILE NO: **OM-7.12**

TAX MAP &
PARCEL(S): **234-23.00-262.00**

LOCATION: **Lying on the southwest corner of the intersection of Indian
Mission Road (Rt. 5) and John J. Williams Hwy (Rt. 24)**

NO. OF UNITS: **Building a bank**

GROSS
ACREAGE: **1.76**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 1**
- (3). Is wastewater capacity available for the project? **Yes** If not, what capacity is available? **N/A.**
- (4). Is a Construction Agreement required? **Yes** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A.** Is it likely that additional SCCs will be required? **Yes** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Nicole Messeck** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **N/A**
- (8). Comments: **Click or tap here to enter text.**
- (9). Is a Sewer System Concept Evaluation required? **Yes, Contact Utility Planning at 302-855-7370 to apply**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Yes**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Nicole Messeck

COMMUNITY BANK DELAWARE

CASE NO. CZ 1940

ZONING MAP AMENDMENT FROM AR-1 TO C-2

EQUITABLE OWNER/DEVELOPER:

COMMUNITY BANK DELAWARE C/O ALEX PIRES, CEO
16982 KINGS HIGHWAY
LEWES, DE 19958

LEGAL:

BAIRD, MANDALAS, BROCKSTEDT, LLC
1413 SAVANNAH ROAD, SUITE 1
LEWES, DE 19958
STEPHEN W. SPENCE, ESQUIRE
MACKENZIE M. PEET, ESQUIRE

PLANNER/ENGINEER/SURVEYOR:

PENNONI
18072 DAVIDSON DRIVE
MILTON, DE 19968
MARK H. DAVIDSON, PRINCIPAL LAND PLANNER
ALAN DECKTOR, PE., ENV SP
JOHN W. HAUPT, PLS
ERIC W. WAHL, RLA

TABLE OF CONTENTS:

COVER PAGE
QUALIFICATIONS
NOTICE OF HEARING

TAB 1 APPLICATION

- a. APPLICATION
- b. EXISTING CONDITIONS PLAN
- c. LEGAL DESCRIPTION
- d. SERVICE LEVEL RESPONSE LETTER

TAB 2 EXHIBITS

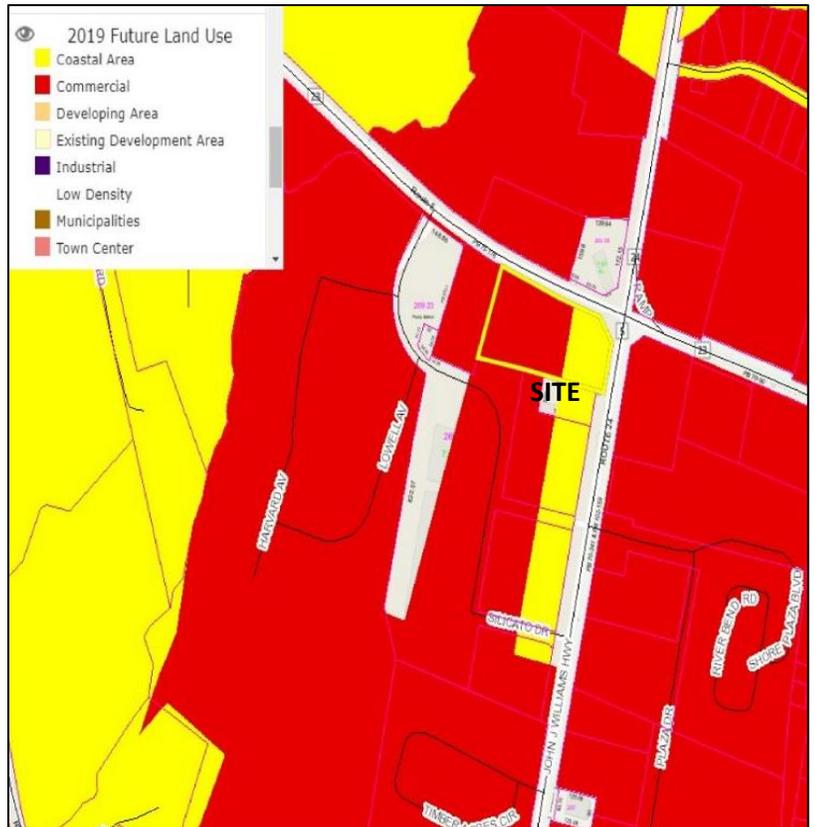
- a. COMMUNITY BANK CONCEPT PLAN
- b. UTILITY SERVICE AVAILABILITY

TAB 3 MAPS/PLANS

- a. 2021 AERIAL IMAGE
- b. COUNTY ZONING
- c. FUTURE LAND USE MAP
- d. 2020 STATE STRATEGIES
- e. ADJACENT COMMERCIAL AREAS

TAB 4 FINDINGS

- a. FINDINGS OF FACT



PROJECT TEAM

Equitable Owner

Community Bank Delaware
16982 Kings Highway
Lewes, DE 19958

Applicant

Community Bank Delaware
C/O Alex Pires, CEO
16982 Kings Highway
Lewes, DE 19958

Principal Consultant

Pennoni Associates Inc.
Mark H Davidson, VP
18072 Davidson Drive
Milton, Delaware 19968

Project Surveyor

Pennoni Associates Inc.
John W Haupt, PLS
Kevin Ellis, LSIT
18072 Davidson Drive
Milton, Delaware 19968

Project Engineer(s)

Pennoni Associates Inc.
Alan M. Decktor, PE, ENV, SP
Milton Delaware 19968

Landscape Architect

Pennoni Associates Inc.
Eric W. Wahl, RLA, ASLA
18072 Davidson Drive
Milton, Delaware 19968

Pennoni Associates Inc., established in 1966, is a multi-disciplined engineering and design consulting firm that provides personalized services and solutions to meet the needs of our diverse clients. Pennoni employs 1,467 professional, technical, and administrative personnel in 34 offices throughout Pennsylvania, New Jersey, Delaware, New England, Maryland, Florida, North Carolina, Ohio, Virginia, and New York. Pennoni provides services to local, state, and federal governments, private, commercial, industrial, and construction clients as well as to other professional firms.

Pennoni Associates Inc. Key Personnel:

**Mark H. Davidson, Vice President
Office Director**

Principal Land Planner/Consultant

Experience: 36-years

Education: University of Delaware 1986-1990 – Civil Engineering

Delaware Technical & Community College 1984-1986 – Land Surveying

Land Surveying Business Diploma 1998

Institute for Public Administration 2006 – Land Planning

Delaware TR-20 Hydrology 1993

Reducing Flood Hazard Coastal Development 1996

Wastewater Microbiology 1997

Land Conservation/Historic Preservation 2003

Licenses/Certifications: Delaware DNREC Class A & B License #2418

Sediment & Stormwater Management Certification, DE #860, MD #4914

DNREC Certified Construction Reviewer DE #1270

IPA Delaware State Planning Certification

- ❖ Civil Engineering/Land Surveying
- ❖ Project/Construction Management
- ❖ Land Planning/Consulting
- ❖ Transportation engineering
- ❖ Soils/Wetlands Permitting/Consulting
- ❖ Water/Wastewater Engineering
- ❖ Contract Writing/Negotiating
- ❖ Policy Planning & Reporting
- ❖ FEMA Permitting
- ❖ Stormwater/Wastewater Management
- ❖ Municipal Engineering
- ❖ Local/State Highway & Road Planning/Design
- ❖ Shore, Dune and Beach Replenishment Design
- ❖ Pollution Control Strategy Permitting
- ❖ Strategic Planning
- ❖ Comprehensive Land Use Planning
- ❖ Project & Business Development

**Alan M. Decktor, PE, ENV SP, Senior Project Engineer/
Civil Engineer**

Experience: 15-years

Education: University of Delaware, Bachelor of Science in Civil Engineering

Licenses/Certifications:

Delaware Professional Engineer #17771

Delaware DNREC Class B & C License #5912.

Pennsylvania Professional Engineer #PE081635

Maryland Professional Engineer #51306

NCEES Record #54878

Envision Sustainable Professional, ISI

- ❖ Civil Engineering
- ❖ Survey Experience
- ❖ Project Management, Proposal Preparation
- ❖ Residential and Commercial Design/Permitting
- ❖ Municipal Services/Design
- ❖ Contract Administration
- ❖ Construction Administration/Review
- ❖ Subdivision Street and Entrance Design
- ❖ Local/State Highway and Road Planning/Design
- ❖ Innovative Stormwater Design, Hydrology and Hydraulics
- ❖ Erosion and Sediment Control Plans
- ❖ Water and Wastewater Design
- ❖ Utility Design
- ❖ Land Planning Consulting
- ❖ Sustainable Design Experience

Eric W. Wahl, RLA, ASLA**Landscape Architect****Experience:** 20 years**Education:** Bachelor of Science in Landscape Architecture,
Temple University 2001**Licenses/Certs:**

Delaware Landscape Architect # 409

Maryland Landscape Architect #3387

Pennsylvania Landscape Architect #2665 (inactive)

- ❖ Landscape and Lighting Design
- ❖ Residential and Commercial Design
- ❖ Institutional and Campus Design
- ❖ Master Plans and Vision Plans
- ❖ Subdivision Design and Layout
- ❖ Land Planning/Town Planning
- ❖ Wayfinding and Circulation Analysis
- ❖ Innovative Buffer Design
- ❖ Resilient Landscapes with Native Plant Focus
- ❖ Adjunct Professor (Landscape Design & Native

Plants)

John W Haupt, PLS, Principal Surveyor**Experience:** 44-years**Education:** University of Maryland**Licenses/Certifications:**

DE Licensed Professional Land Surveyor #585,

MD Licensed Professional Land Surveyor #21545

- ❖ Residential & Commercial Land Surveying
- ❖ Industrial and Municipal Land Surveying
- ❖ Topography and Wetlands Surveying
- ❖ Construction Stakeout
- ❖ FEMA/Floodplain Surveying
- ❖ State Highway and Local Roads Surveying
- ❖ GPS Surveying
- ❖ Deed Research & Interpretation
- ❖ Boundary and Easement Descriptions
- ❖ Shore, Dune and Beach Replenishment Surveying
- ❖ Boundary Survey Determinations/Management
- ❖ High Definition Laser Scanning / 3D Reality Capture
- ❖ ALTA/NSPS Land Title Surveys

❖

Using state-of-the-art technology and equipment, **Pennonni** offers full-service capabilities in the following areas:**Bridge & Highway Engineering****Civil Engineering****Construction & Fabrication Management****Construction Material Testing****Electrical Engineering****Environmental Engineering****Environmental Sciences****Geographic Information Systems (GIS)****Geotechnical Engineering****Inspection & Testing****Landscape Architecture****Mechanical Engineering****Planning****Plumbing/Fire Protection Engineering****Kevin B Ellis, LSIT, Senior Surveyor****Experience:** 24-years**Licenses/Certifications:**

MD E&S Control Certification # RPC010231

- ❖ Residential & Commercial Land Surveying
- ❖ Municipal Land Surveying
- ❖ Topography and Wetlands Surveying
- ❖ Construction Stakeout
- ❖ FEMA/Floodplain Surveying/Permitting
- ❖ State Highway and Local Roads Surveying
- ❖ GPS Surveying
- ❖ Deed Research & Interpretation
- ❖ Metes and Bounds Descriptions
- ❖ Municipal and Highway Engineering
- ❖ Stormwater Management Design/Permitting
- ❖ Boundary Survey Determinations/Management
- ❖ ALTA/NSPS Land Title Surveys

Site Design**Solid & Hazardous Waste Management****Land Surveying****Transportation Engineering****Underwater Inspections****Water & Wastewater Management****Municipal Engineering****Printing and Reproduction****Project Management & Consulting****Construction Management (CCR Reporting and Inspection)****Multiple Federal, State and County Permitting****Conservation Design and Consulting Services****Energy**

JAMIE WHITEHOUSE, AICP
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

November 18, 2021

Mark H. Davidson
PENNONI
18072 Davidson Drive
Milton, DE 19968

Email: MDAVIDSON@PENNONI.COM

Dear Mark H. Davidson:

C/Z 1940 Community Bank Delaware c/o Stephen W. Spence

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.76 ACRES, MORE OR LESS. The property is lying on the southwest corner of the intersection of Indian Mission Road (Rt. 5) and John J. Williams Highway (Rt. 24). 911 Address: 31816 & 24882 Indian Mission Road, Millsboro. Tax Parcel: 234-23.00-262.00.

The **Planning and Zoning Commission** will hold a Public Hearing on **Thursday, December 9, 2021, at 5:00 pm** in the Sussex County Council Chambers located in the County Administrative Office at 2 The Circle Georgetown, DE, 19947.

The **Sussex County Council** will hold a Public Hearing on **Tuesday, January 4, 2022, at 1:30 pm** in the Sussex County Council Chambers located in the County Administrative Office at 2 The Circle Georgetown, DE, 19947.

It will be necessary for you the applicant to participate at the hearings before both the Commission and County Council. If you do not participate or are not represented, the Commission and/or County Council reserve the right to refuse to act on your application and may require that a new application be filed, and fees paid at your expense.

If an attorney, or agent, will be representing you, the applicant, it is your duty to notify them as to the dates and times of the hearings as herein set forth, as the Commission and County Council will not notify your counsel.

Further instructions describing the method of public participation and the manner of viewing the hearings will be contained within the Agendas for both of these meetings that will be posted at least 7 days in advance of each meeting at sussexcountyde.gov.

Sincerely,
Planning and Zoning Department



TAB 1
APPLICATION

**Planning & Zoning Commission Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

- Conditional Use
- Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Type of Conditional Use Requested:

Tax Map #: _____ **Size of Parcel(s):** _____
Current Zoning: _____ **Proposed Zoning:** _____ **Size of Building:** _____

Land Use Classification:

Water Provider: _____ **Sewer Provider:** _____

Applicant Information

Applicant Name: _____
Applicant Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____

Owner Information

Owner Name: _____
Owner Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: _____
Agent/Attorney/Engineer Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- Completed Application**
- Provide eight (8) copies of the Site Plan or Survey of the property**
 - o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - o Provide a PDF of Plans (may be e-mailed to a staff member)
 - o Deed or legal description
- Provide Fee \$500.00**
- Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) if provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.**
- Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- DelDOT Service Level Evaluation Request Response**
- PLUS Response Letter (if required)**

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

Stephen W. Spence Digitally signed by Stephen W. Spence
Date: 2021.02.24 12:00:01 -0500

Date: 2/24/21

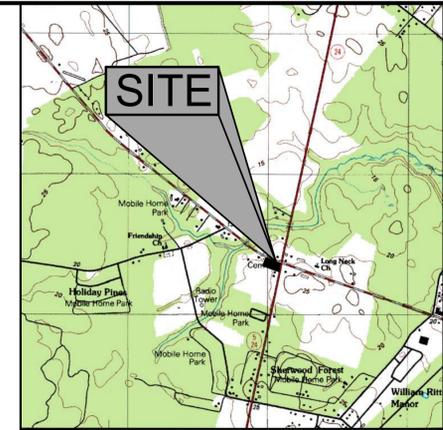
Signature of Deputy

RICHARD GIBBS, ESQ
for office use only: CITY, FOR OWNER

Date: 2/25/2021

Date Submitted: _____ Fee: \$500.00 Check #: _____
 Staff accepting application: _____ Application & Case #: _____
 Location of property: _____
 Subdivision: _____
 Date of PC Hearing: _____ Recommendation of PC Commission: _____
 Date of CC Hearing: _____ Decision of CC: _____

U:\Projects\ETDG\ETDG20001 - Rt. 5 and Rt. 24 Community Bank\ETDG20001 - LSP.dwg PLOT DATE: 2/26/24 1:59 PM BY: Sjamir, L Dink PROJECT STATUS: PLOTTED BY: Pannoni KCS db



VICINITY MAP
SCALE: 1" = 2000'

LEGEND

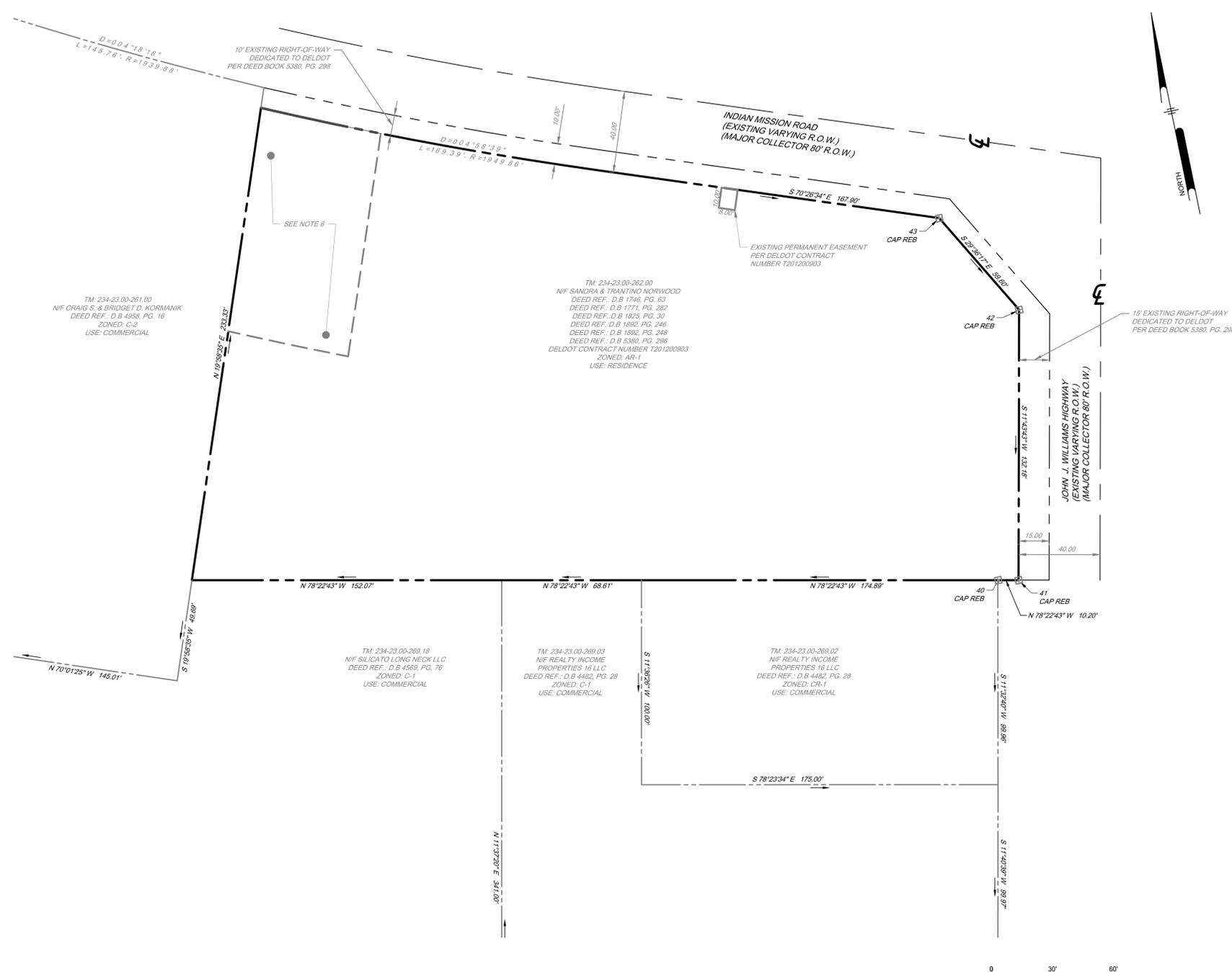
- PROPERTY LINE
- - - ADJACENT PROPERTY LINE
- - - RIGHT-OF-WAY LINE
- CAPPED REBAR
(PER DELDOT CONTRACT NUMBER T201200903)

GENERAL NOTES :

- THE BOUNDARY INFORMATION SHOWN ON THIS PLAN WAS TAKEN FROM DOCUMENTS OF PUBLIC RECORD. NO FIELD SURVEY VERIFICATION WAS CONDUCTED BY PENNONI.
DEED REFERENCE:
-DEED BOOK 1746, PAGE 63.
-DEED BOOK 1771, PAGE 282.
-DEED BOOK 1825, PAGE 30.
-DEED BOOK 1892, PAGE 246.
-DEED BOOK 1892, PAGE 248.
-DEED BOOK 5308, PAGE 298.
-DELDOT HSIP, SR 24 AT SR 5/SR23 INTERSECTION IMPROVEMENTS CONTRACT NUMBER T201200903
-ALTANSPS LAND TITLE SURVEY PERFORMED BY CONTROL POINT ASSOCIATES, INC. (DATED 1-3-2019).
- THIS SURVEY DOES NOT VERIFY THE LOCATION AND/OR EXISTENCE OF EASEMENTS OR RIGHTS OF WAY CROSSING SUBJECT PROPERTY AS NO TITLE SEARCH WAS REQUESTED OR PROVIDED.
- THIS PROPERTY APPEARS ON SUSSEX COUNTY TAX MAP AS 234-23.00-262.00.
- THERE ARE NO WETLAND AREAS ON THE PROPERTY, PER THE DNREC ENVIRONMENTAL NAVIGATOR WEBSITE.
- THE PROPERTY IS LOCATED IN ZONE "X" ON THE FEMA FLOOD INSURANCE RATE MAP NUMBER 10005C340K MAP REVISED MARCH 16, 2015. ZONE "X" IS AN AREA DETERMINED TO BE OUTSIDE THE 500 YEAR FLOODPLAIN. (NO IMPACT). ZONE "A" IS AN AREA DETERMINED TO HAVE NO BASE FLOOD ELEVATIONS.
- PARCEL 234-23.00-262.00 (ALSO KNOWN AS PARCEL 10-L) CONTAINS AN UNMARKED CEMETERY AND ANY WORK OR CONSTRUCTION ACTIVITIES BEYOND THE ILLUSTRATED LOC ARE STRICTLY PROHIBITED. TWO WEEKS PRIOR TO CONSTRUCTION ADJACENT TO PARCEL 10-L, DELDOT ARCHAEOLOGIST KYLE EDWARDS MUST BE CONTACTED TO ARRANGE FOR CONSTRUCTION MONITORING. IF GRAVE SHAFTS, HUMAN REMAINS, OR GRAVE MARKERS ARE ENCOUNTERED DURING CONSTRUCTION, ALL WORK IN THE AREA SHALL STOP IMMEDIATELY AND DELDOT ARCHAEOLOGIST KYLE E. EDWARDS WILL BE CONTACTED PER DELDOT CONTRACT NUMBER T201200903.

SITE DATA:

| | |
|-----------------------------|---|
| TAX MAP NUMBERS : | 234-23.00-262.00 |
| OWNER INFO: | SANDRA & TRANTINO NORWOOD PO BOX 205 HARBESON, DE 19951 |
| SITE ADDRESS : | 31816 INDIAN MISSION ROAD MILLSBORO, DE 19966 INDIAN RIVER HUNDRED SUSSEX COUNTY |
| EXISTING TOTAL ACREAGE: | 1.76 ACRES± (TOTAL) |
| FUTURE LAND USE AREA: | COMMERCIAL/ COASTAL AREA 2019 SUSSEX COUNTY COMPREHENSIVE PLAN |
| ZONING EXISTING PROPOSED | AR-1 C-2 MEDIUM COMMERCIAL (ARTICLE XIB) |
| PRESENT USE: | RESIDENTIAL DWELLINGS |
| PROPOSED USE: | COMMUNITY BANK |
| SEWER PROVIDER: | PUBLIC (SUSSEX COUNTY) |
| WATER PROVIDER: | PUBLIC (TIDEWATER UTILITIES) |
| BUILDING RESTRICTION LINES: | FRONT - 60 FEET SIDE - 5 FEET and 20 FEET (115-83.15 B. (1) & (2)) REAR - 30 FEET (115-83.15 B. (2)) |



Pennonni
PENNONI ASSOCIATES INC.
18072 Davidson Drive
Milton, DE 19968
T 302.684.9030 F 302.684.8054

ALL DIMENSIONS MUST BE VERIFIED BY CONTRACTOR AND OWNER MUST BE NOTIFIED OF ANY DISCREPANCIES BEFORE PROCEEDING WITH WORK

RT. 5 AND RT. 24 COMMUNITY BANK
31816 INDIAN MISSION ROAD
MILLSBORO, DE 19966

BOUNDARY PLAT

COMMUNITY BANK
16892 KINGS HIGHWAY
LEWES, DE 19958

| NO. | DATE | REVISIONS | BY |
|-----|------|-----------|----|
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ALL DOCUMENTS PREPARED BY PENNONI ASSOCIATES ARE INSTRUMENTS OF SERVICE IN RESPECT OF THE PROJECT. THEY ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY OWNER OR OTHERS ON THE EXTENSIONS OF THE PROJECT OR ON ANY OTHER PROJECT. ANY REUSE WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY PENNONI ASSOCIATES FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT OWNERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO PENNONI ASSOCIATES AND OWNER SHALL INDEMNIFY AND HOLD HARMLESS PENNONI ASSOCIATES FROM ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES ARISING OUT OF OR RESULTING THEREFROM.

| | |
|---------------|------------|
| PROJECT | ETDG20001 |
| DATE | 2021-02-24 |
| DRAWING SCALE | 1"=30' |
| DRAWN BY | SJD |
| APPROVED BY | AMD |

PARTICULAR DESCRIPTION

LANDS OF TRANTINO AND SANDRA NORWOOD INDIAN RIVER HUNDRED, SUSSEX COUNTY DELAWARE

Sussex County Tax Map Parcel 234-23.00-262.00

All that certain piece and parcel of land, situated in Indian River Hundred, Sussex County, Delaware and being more particularly described as follows:

Beginning at a capped iron rebar, said rebar lying on the westerly right-of-way of John J. Williams Highway and being a corner for this Parcel; thence by and work this Parcel North 78 degrees, 22 minutes, 43 seconds West, 405.77 feet (crossing over a capped rebar at 10.20 feet) to a point, said point being a corner for this Parcel and Lands now or formerly of Silicato Long Neck, LLC and lying on the property line of lands now or formerly of Craig S. and Bridget D. Kormanik; thence by and with this Parcel and lands now or formerly of Craig S. and Bridget D. Kormanik, North 19 degrees, 58 minutes, 35 seconds East, 233.33 (crossing over an unmarked cemetery at 123.00 feet also known as Parcel 10-L per DelDot contract number T201200903) to a point, said point lying on the southerly right-of-way of Indian Mission Road and being a corner for the unmarked cemetery and lands now or formerly of Craig S. and Bridget D. Kormanik; thence by and with the unmarked cemetery parcel and the southerly right-of-way Indian Mission road the following three (3) courses and distances, 1.) with a curve to the left, said curve having a radius of 1949.86 feet, an arc distance of 169.39 feet and a chord bearing and distance, South 67 degrees, 57 minutes, 14 seconds East, 169.34 feet (crossing over and ending the unmarked cemetery at 60.13) to a point, 2.) South 70 degrees, 26 minutes, 34 seconds East, 167.90 feet (crossing over an existing 80 square foot DelDot permanent easement per contract number T201200903) to a capped rebar, 3.) South 29 degrees, 36 minutes, 17 seconds East, 59.60 feet to a capped rebar, said rebar being a corner for this Parcel and lying on the westerly right-of-way of John J. Williams; thence by and with the westerly right-of-way of John J. Williams Highway South 11 degrees, 43 minutes, 43 seconds West, 132.18 feet to a capped rebar, said rebar being the Point of Beginning for this description.

The total acreage of this Parcel is 1.76 Acres, more or less.



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

February 25, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Community Bank Delaware c/o Stephen W. Spence** proposed land use application, which we received on January 8, 2021. This application is for an approximately 1.43- acre parcel (Tax Parcel: 234-23.00-262.00). The subject land is located southwest corner of Indian Mission Road (State Route 5) and John J. Williams Highway (State Route 24). The subject land is currently zoned AR-1 (Agriculture Residential) with a proposed zoning of C-2 (Medium Commercial). The applicant seeks to build a drive-in bank of 3,000 to 10,000 square feet and 1 to 2 floors.

Per the 2019 Delaware Vehicle Volume Summary, the average daily traffic volumes on average day and on an average summer day along Indian Mission Road, from John J. Williams Highway to Harmons Hill Road (Road 302), are 6,740 and 8,666 vehicles per day, respectively. The average daily traffic volumes on average day and on an average summer day along the segment of John J. Williams Highway where the subject land is located, which is from Mt. Joy (Road 297) to Indian Mission Road, are 18,682 and 24,044 vehicles per day, respectively.

Based on our review, we estimate that the proposed land use will generate more than 50 vehicle trips per peak hour or 500 vehicle trips per day, and would be considered to have a **Minor** impact to the local area roadways. In this instance, the Department considers a Minor impact to be when a proposed land use would generate more than either 50 vehicle trips per peak hour and / or 500 vehicle trips per day but fewer than 200 vehicle trips per a weekly peak hour and 2,000 vehicle trips per day. Because of this impact, we recommend that the applicant be required to perform a Traffic Impact Study (TIS) for the subject application. However, our Development Coordination Manual provides that where a TIS is required only because the volume warrants are met, and the projected trip generation will be fewer than 200 vehicle trips per a weekly peak hour and fewer than 2,000 vehicle trips per day, DelDOT may permit the developer to pay an Area-Wide Study Fee of \$10 per daily trip in lieu of doing a TIS. For this application, if the County were agreeable, we would permit the developer to pay an Area-wide Study Fee.



Mr. Jamie Whitehouse

Page 2 of 2

February 25, 2021

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,

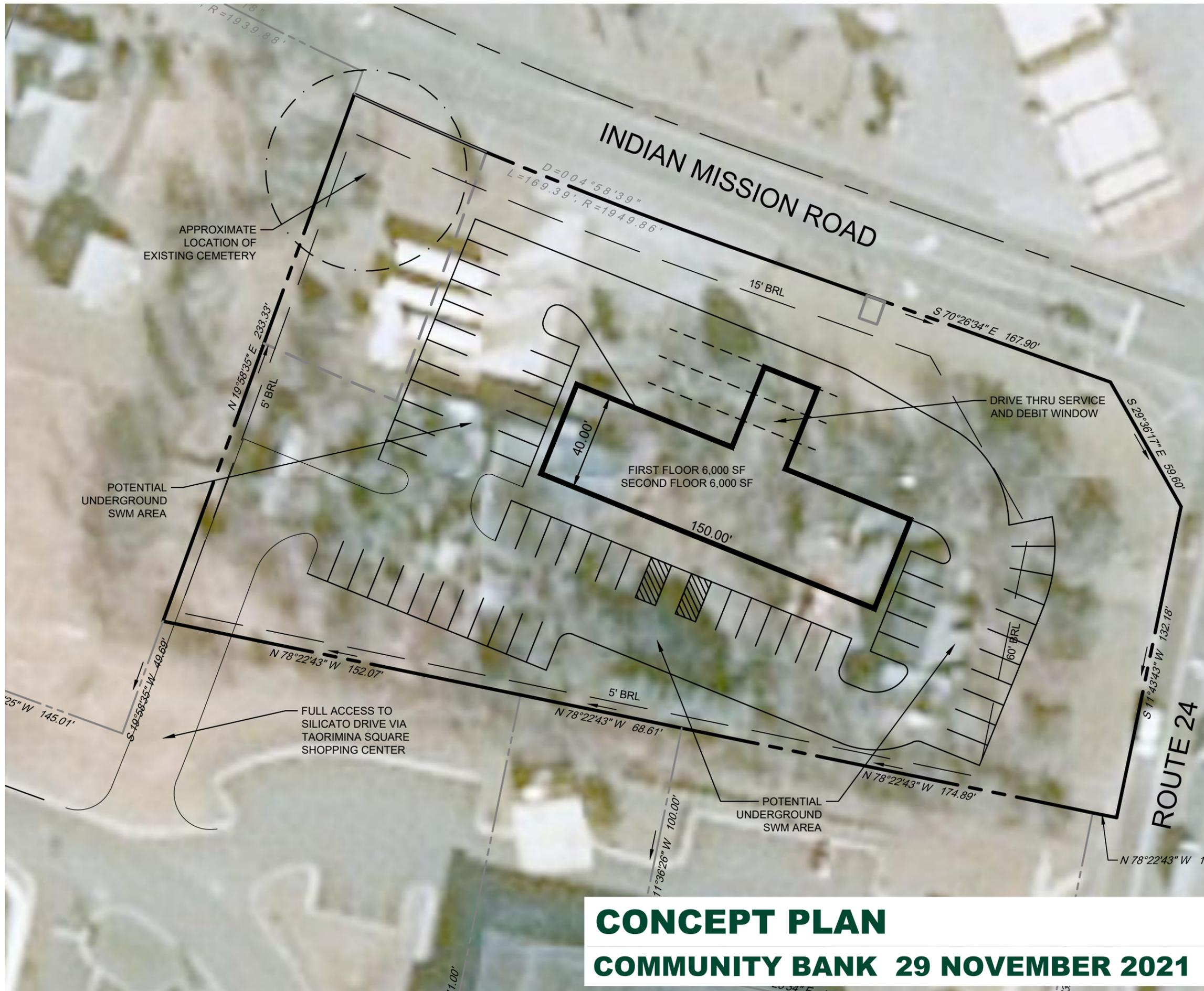


T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:afm

cc: Community Bank Delaware c/o Stephen W. Spence, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

TAB 2
EXHIBITS



SITE STATISTICS

TAX ID 234-23.00-262.00

GROSS AREA APPROX. 1.76 ACRES

EXISTING ZONING AR-1

PROPOSED ZONING C-2

BANKS WITH DRIVE-THRUS ARE PERMITTED USE

FIRST FLOOR 6,000 SF OFFICES/BANK
SECOND FLOOR 6,000 SF OFFICES

TOTAL 12,000 SF BUILDING

SETBACKS FY 60' (RT 24)
SY 5'
CORNER SY 15' (INDIAN MISSION)
RY 5'

PARKING REQUIRED
1 SPACE PER 200 SF FLOOR AREA
12,000 SF / 200 SF = 60 SPACES

PARKING PROVIDED: 62 SPACES



PENNONI ASSOCIATES INC.
18072 Davidson Drive
Milton, DE 19968
T 302.684.8030 F 302.684.8054



CONCEPT PLAN
COMMUNITY BANK 29 NOVEMBER 2021



November 29, 2021

Mr. Alan M. Decktor, PE ENV SP
Pennoni
18072 Davidson Drive
Milton, DE 19968

**RE: Willing & Able Letter – Tax Parcel No. 234-23.00-262.00 Indian Mission Rd.
Route 24 in Long Neck**

Dear Mr. Decktor:

Tidewater Utilities, Inc. (Tidewater) is willing and able to serve public water, *including fire protection*, to the following parcel(s) identified as Tax Map Parcel No. 234-23.00-262.00. Water service is contingent on the terms and conditions of a Water Service Agreement by and between Tidewater and the Project Owner. This parcel is located within Tidewater's existing water Certificate of Public Convenience and Necessity franchise area.

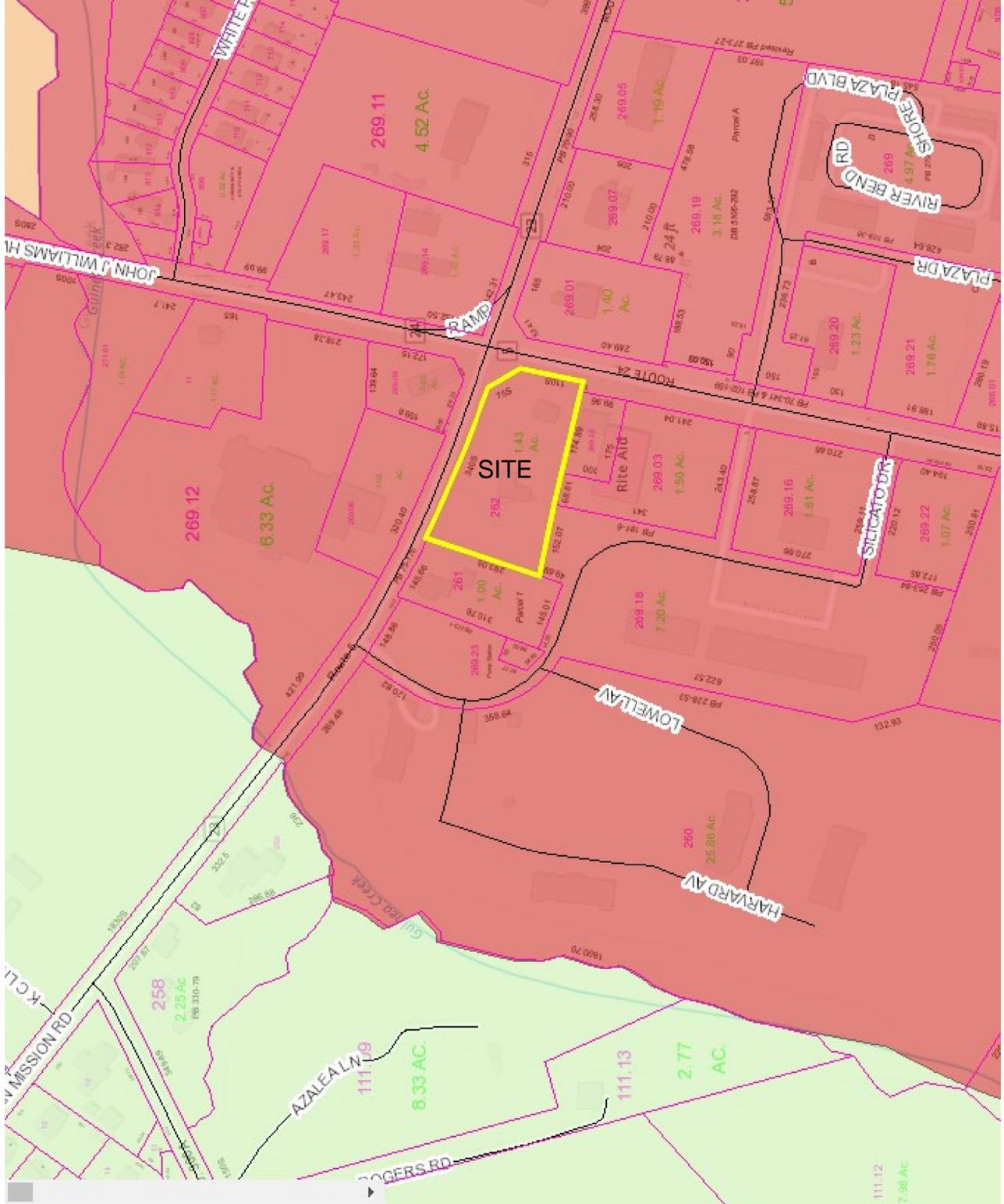
Please send a site plan and construction schedule to Tidewater. Please feel free to contact me at 302-747-1325 if you have any questions or concerns regarding this matter. Tidewater looks forward to meeting the water needs of this project.

Sincerely,

A handwritten signature in cursive script that reads "Kirsten E. Higgins".

Kirsten Higgins
Vice President, Development & Contract
Administration

cc: Brian Carbaugh, P.E., Tidewater Utilities, Inc.



- Sewer Tiers**
- Tier 1 - Sussex County Unified Sanitary Sewer District
 - Tier 2 - Sussex County Planning Area
 - Tier 3 - Coordinated CPCN Areas
 - Tier 4 - System Optional Areas
 - Tier 5 - Regulated On-site Area

Water CPCN

**SUSSEX COUNTY SEWER TIERS:
COMMUNITY BANK SITE
LOCATED IN TIER 1 AS SHOWN**

TAB 3

MAPS



| | | | |
|--------------------------------|--------------------------|--|--|
| Figure 1 of 5. 1 | 2021 Aerial Image |  | <div style="border: 2px solid red; width: 20px; height: 10px; display: inline-block; margin-right: 5px;"></div> Subject <div style="border: 1px solid gray; width: 20px; height: 10px; display: inline-block; margin-right: 5px; background-color: #cccccc;"></div> Other Tax Parcels |
| | Community Bank | | |
| | ETDGX21001 | | |

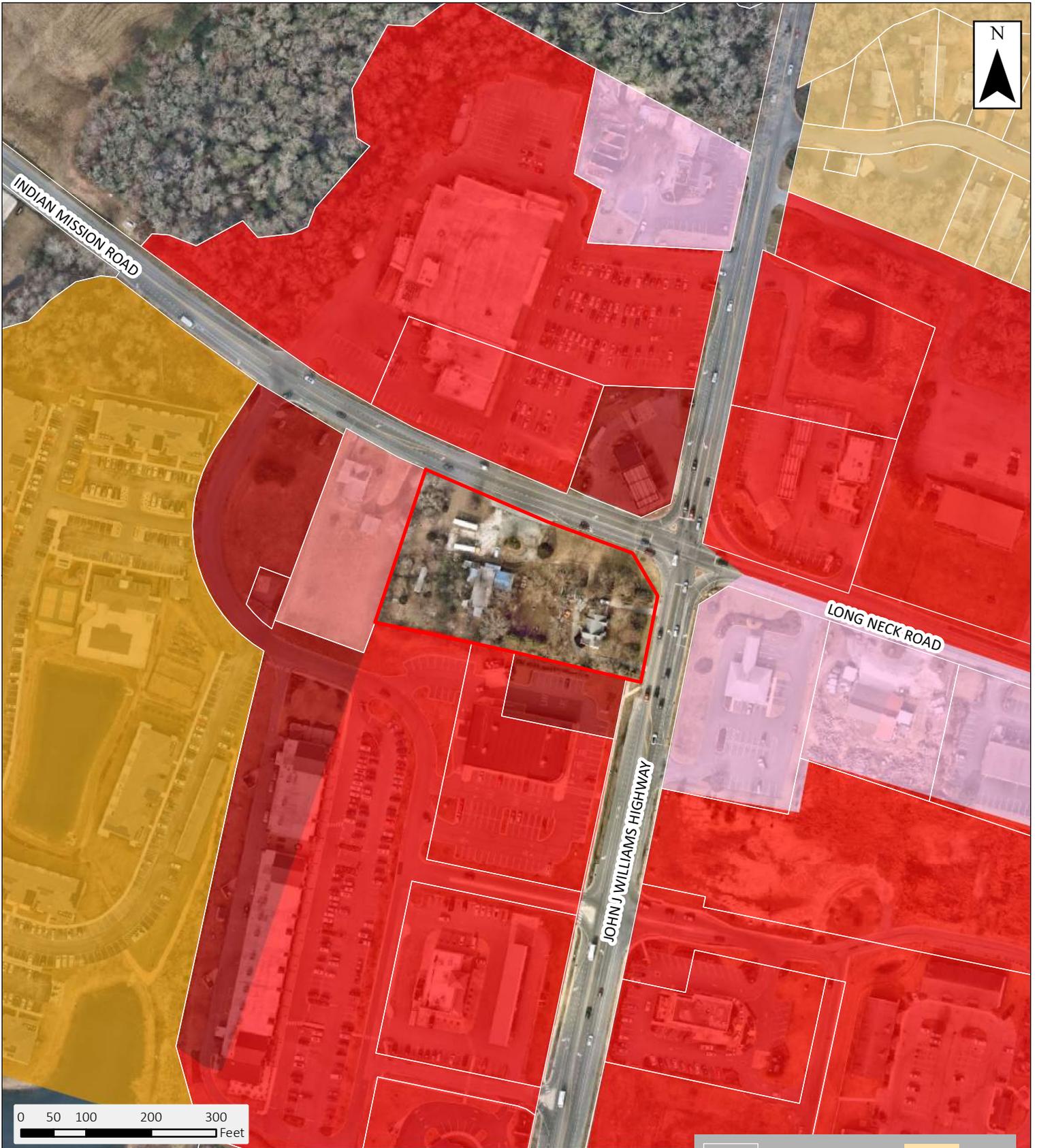
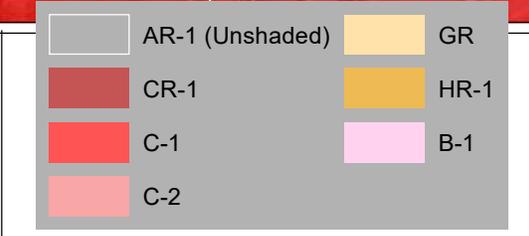
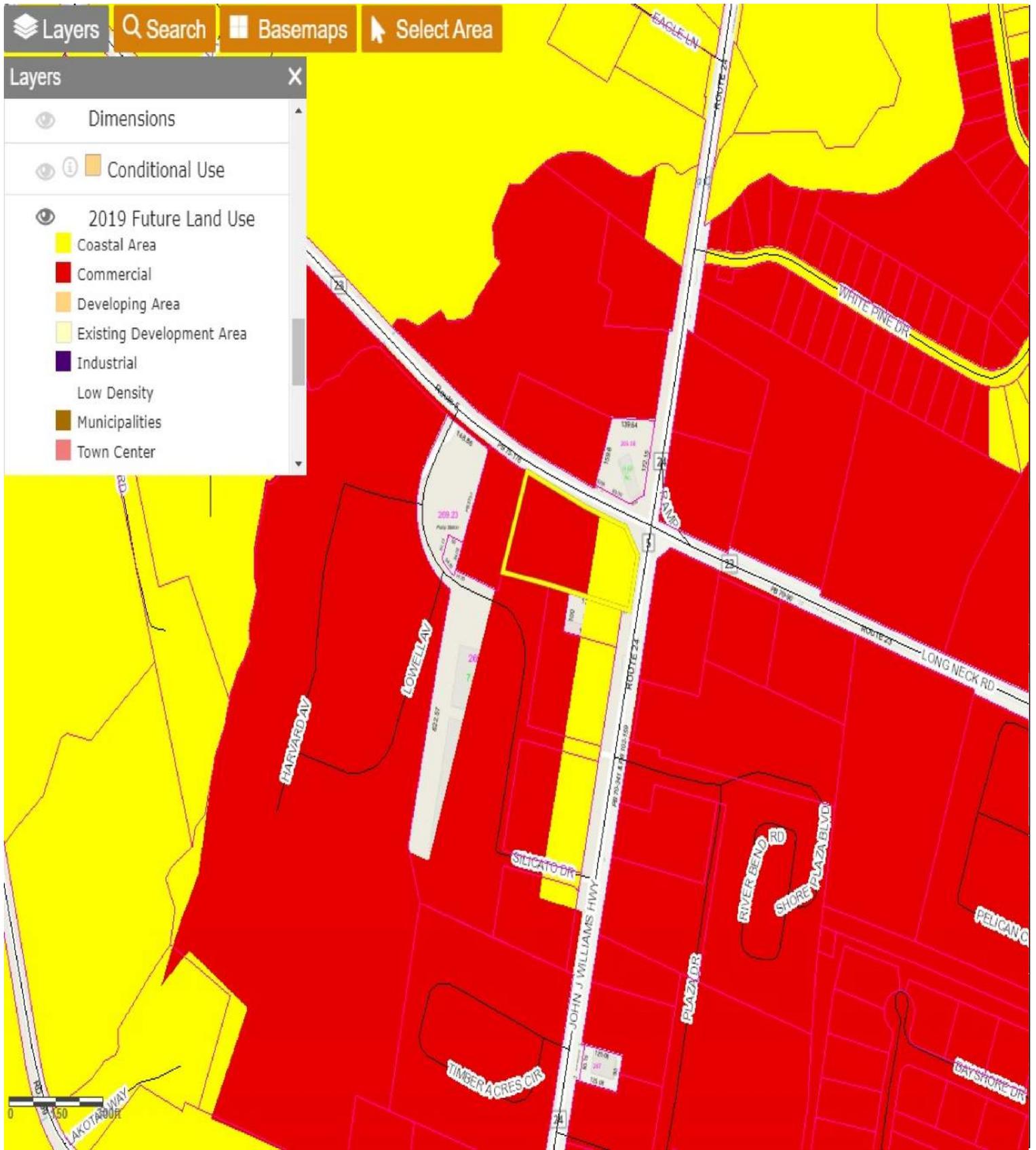


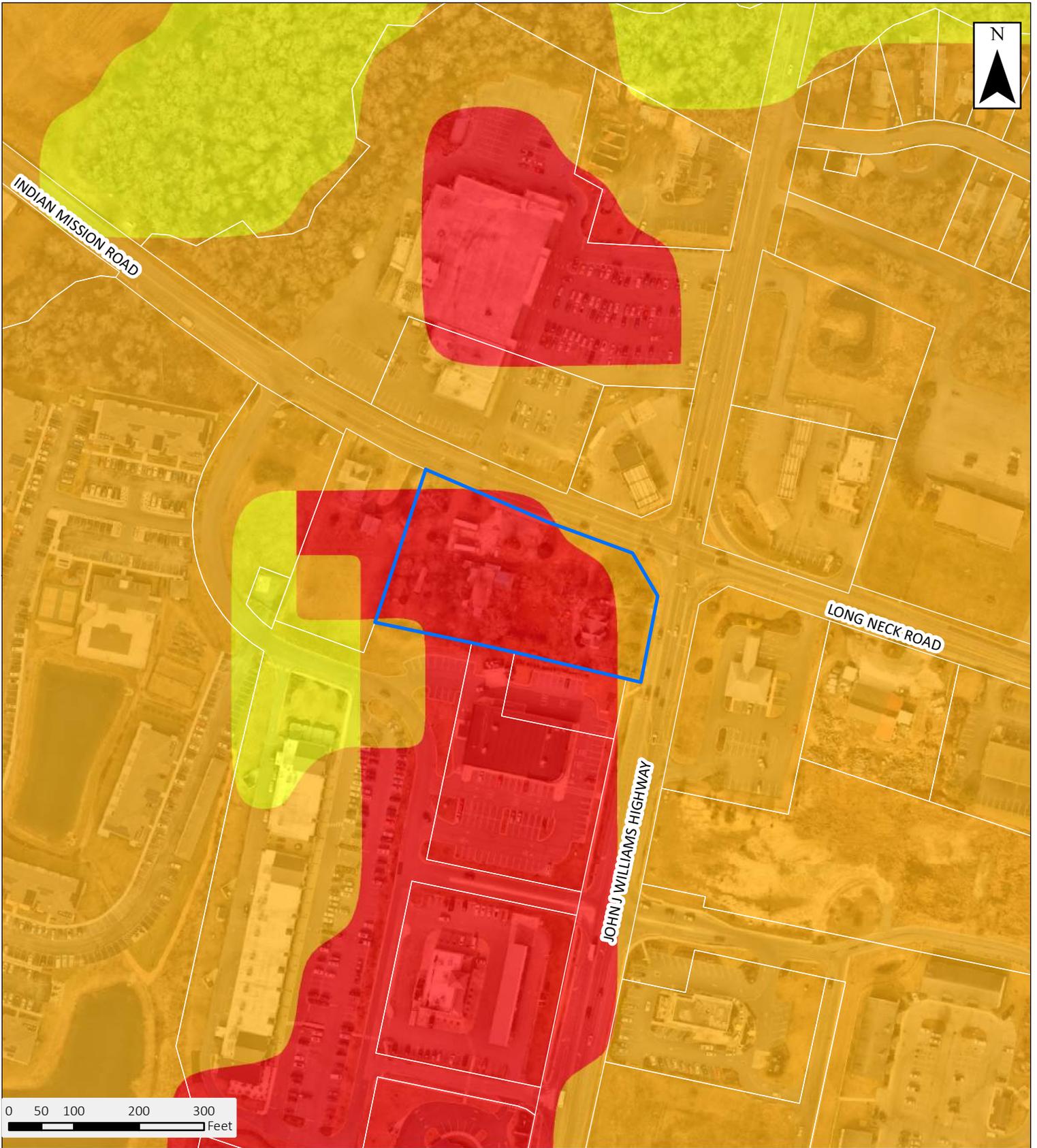
Figure 2 of 5.
2

County Zoning
Community Bank
ETDGX21001





| | | | |
|----------------|---------------------|--|--|
| Figure 3 of 5. | Future Land Use Map |  | |
| 3 | Community Bank | | |
| | ETDGX21001 | | |



| | | | |
|---------------------------------------|---|--|--|
| <p>Figure 4 of 5.</p> <p>4</p> | <p>2020 Delaware State Strategies & Investment Levels</p> | | <p>Investment Level</p> <ul style="list-style-type: none"> Level 1 Level 2 Level 3 |
| | <p>Community Bank</p> | | |
| | <p>ETDGX21001</p> | | |

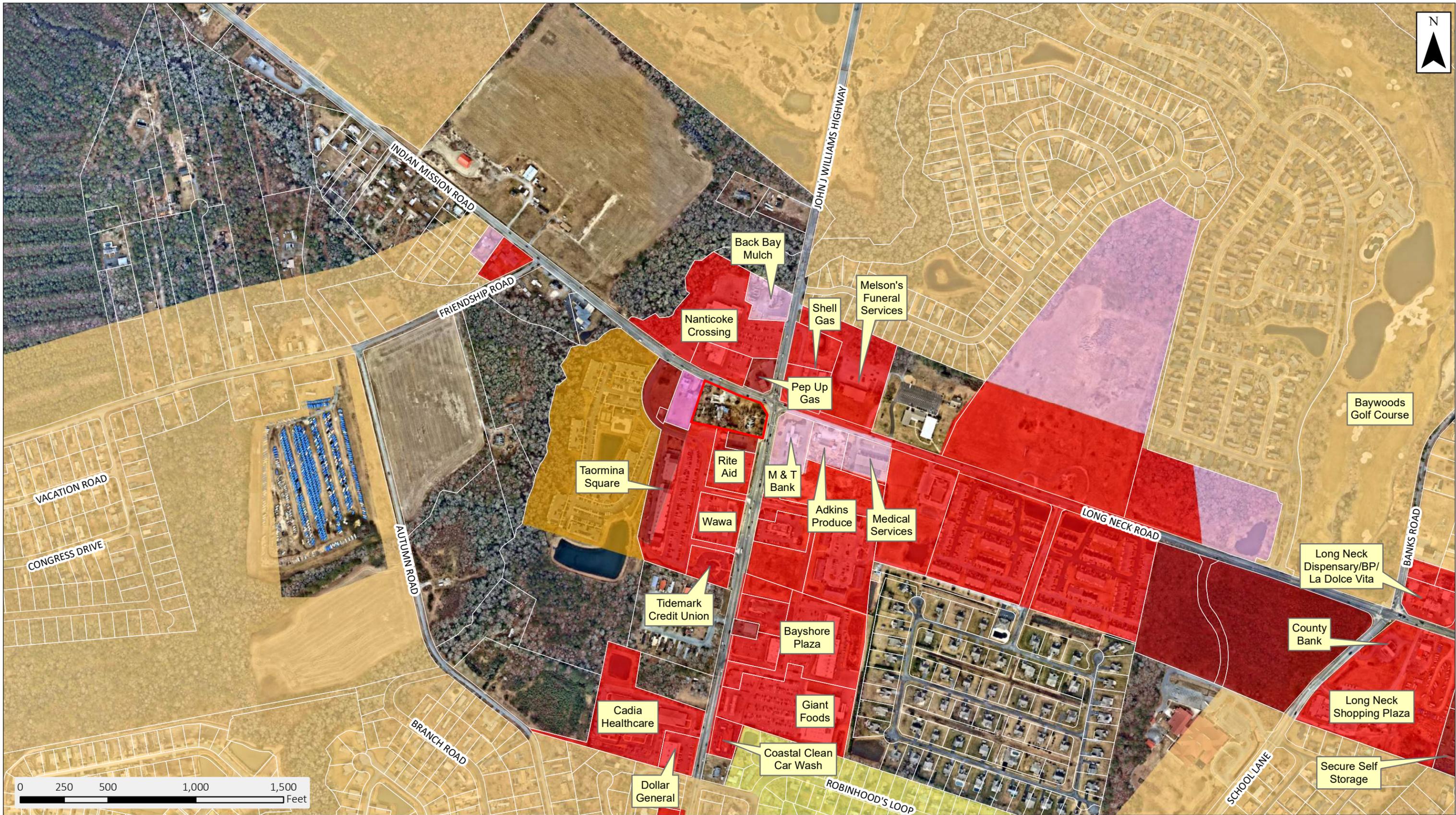


Figure 5 of 5.

5

Area Commercial Uses

Community Bank

ETDGX21001



TAB 4

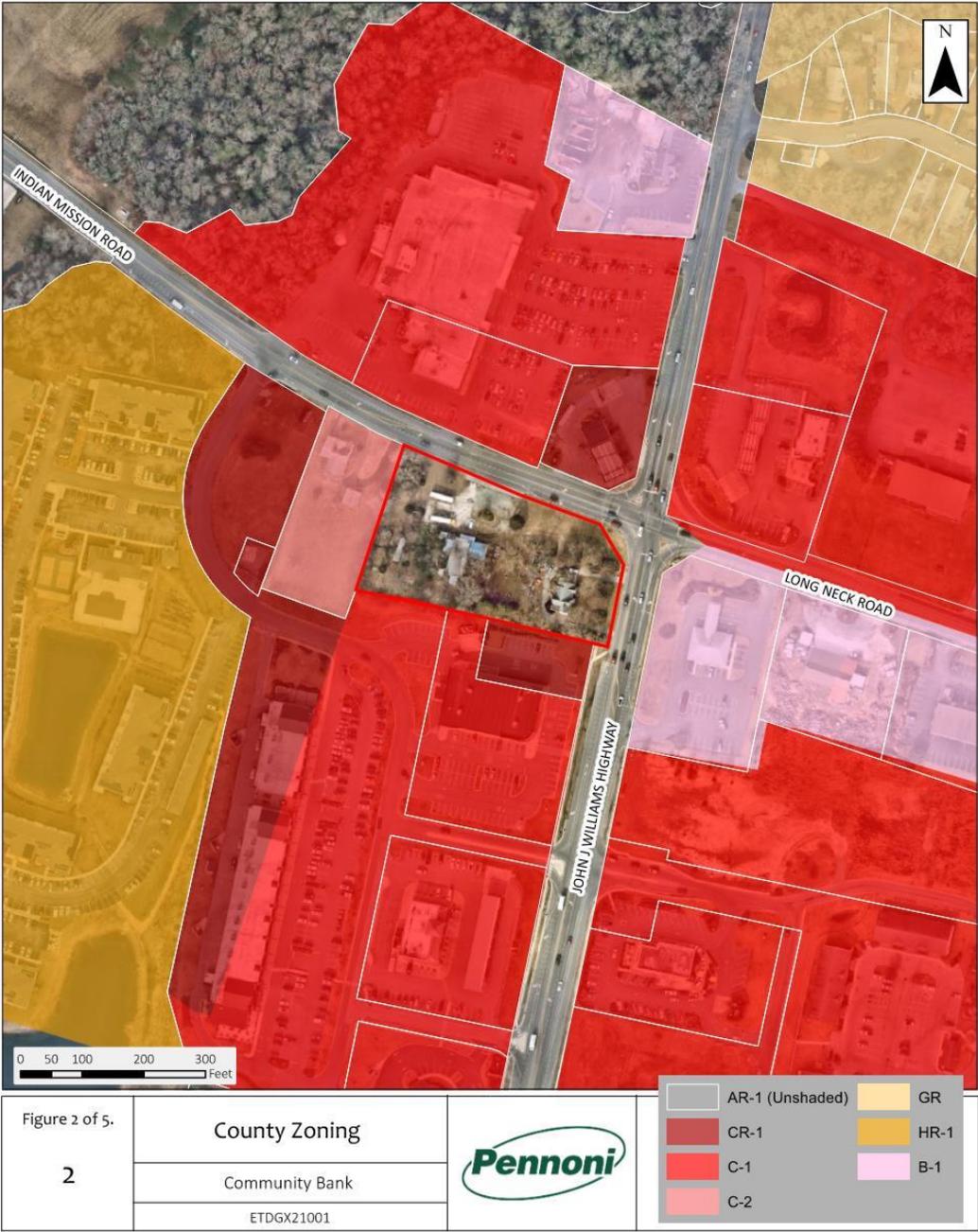
FINDINGS OF FACT

3. The property is identified on the tax maps of the Sussex County Department of Finance as Tax Map No. 234-23.00 Parcel 262.00.



4. The property is bordered on:
 - a. East with John J. Williams Highway.

- b. North by Indian Mission Road.
- c. West by other commercially zoned property.
- d. South by other commercially zoned property as part of the existing shopping center.



Date: 11/24/2021 Document Path: C:\Users\MWalls\Documents\GIS Projects\Community Bank Long Neck\02 County Zoning.mxd

- The Commercial Zoning is in the vicinity of other commercial zoned property and uses and will not diminish or impair property values within the neighborhood; will not create a public nuisance; or result in an increase in public expenditures.

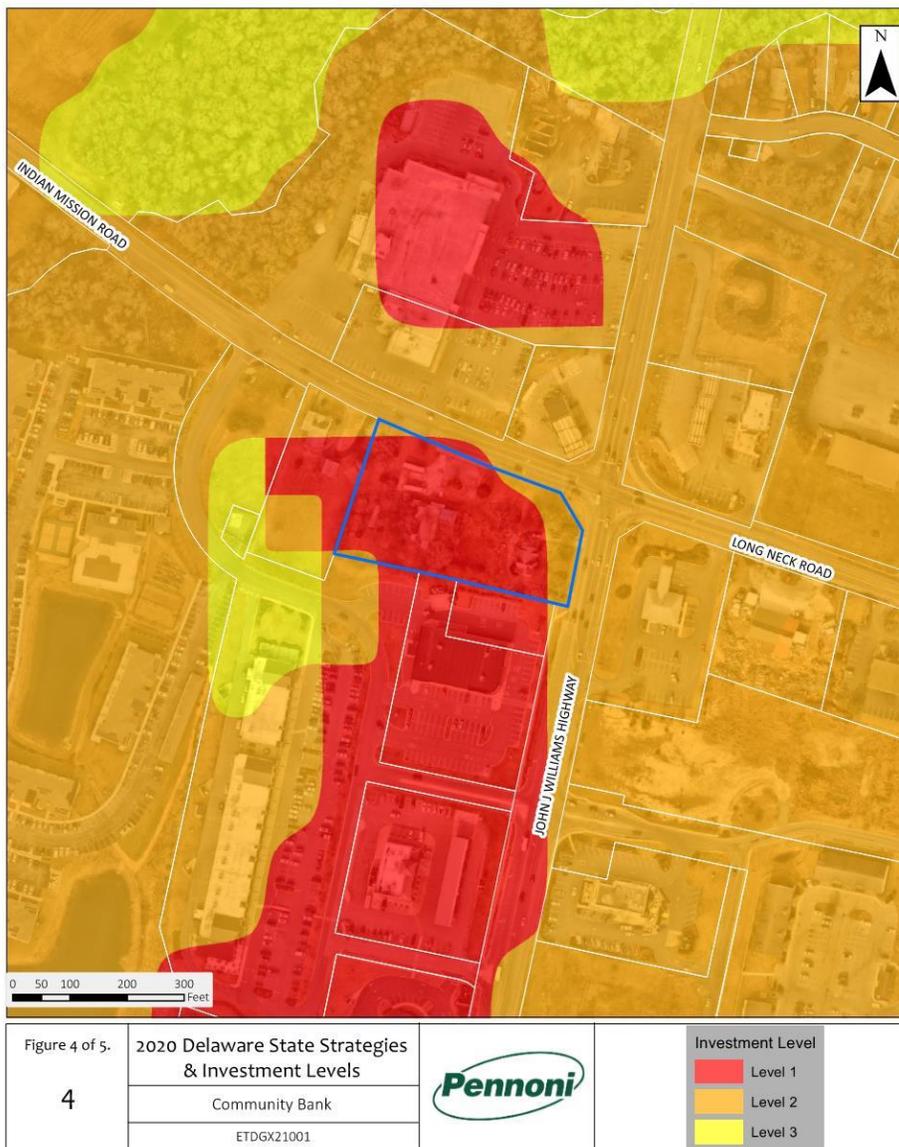


- In the 2019 Sussex County Comprehensive Plan – the property proposed for rezoning for commercial property is identified to be in a Commercial and Coastal Area land use categories. Since the comprehensive plan is a guide for the future use of land, the County’s official zoning map must be consistent with the uses and intensities of uses provided for in the Future Land Use Plan. Both the Commercial area and Coastal Area are considered Growth areas under the Comprehensive Plan. Consistent with the Comprehensive Plan’s Future Land Use Chapter the County considers the development along arterial roads such as John J. Williams Highway as a business corridor with a mix of residential and commercial uses.

- The purpose of the C-2 Medium Commercial District is to support uses that include retail sales and performance of consumer services. It permits a variety of retail, professional and service businesses. The district shall be primarily located

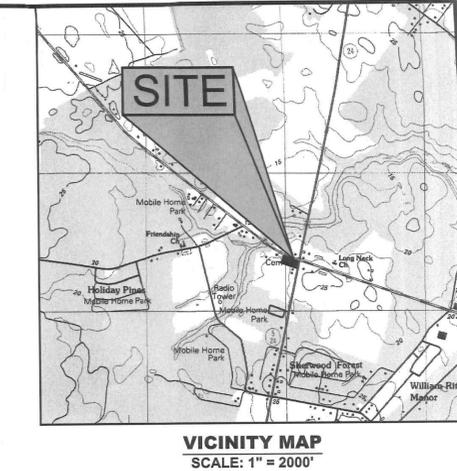
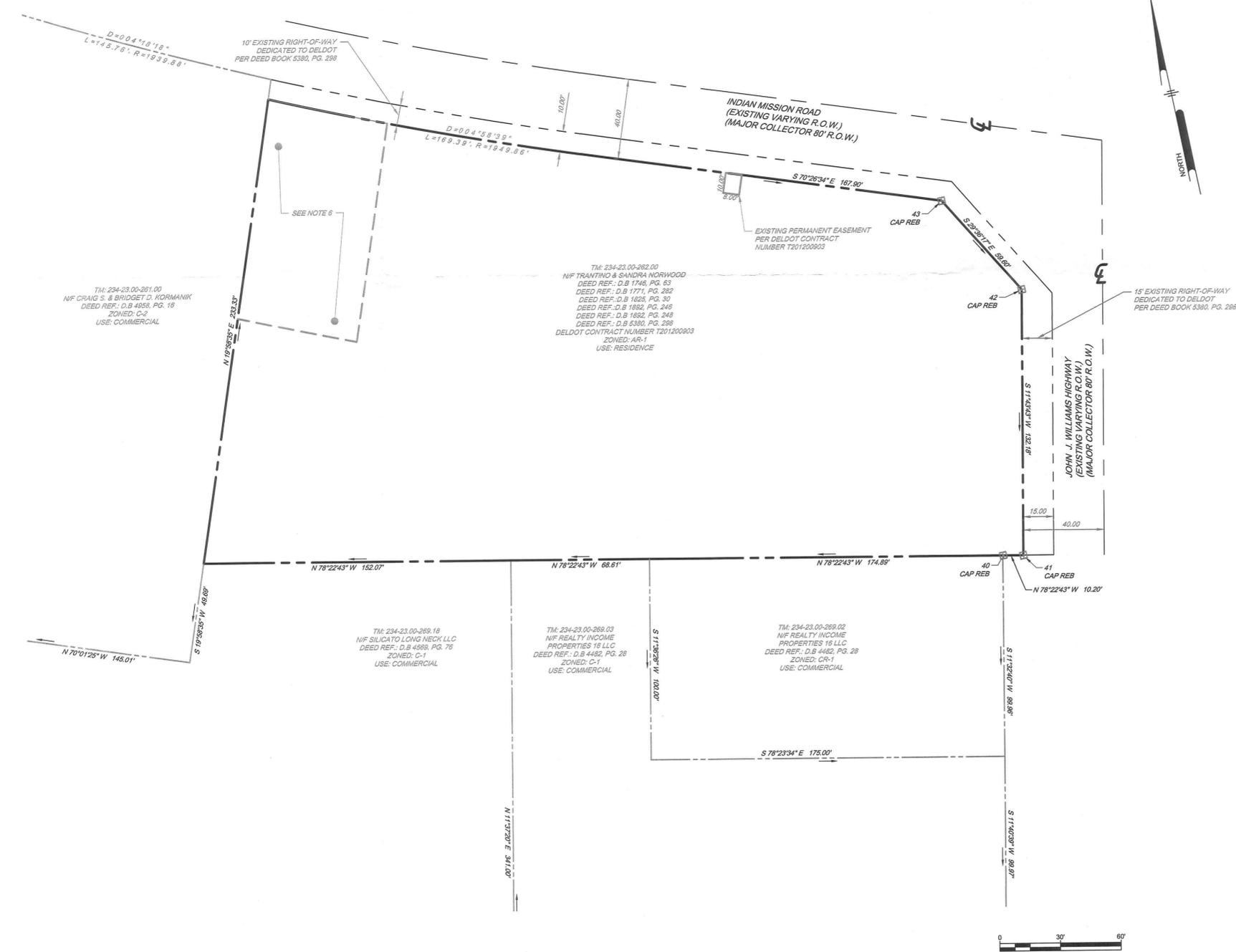
near arterial and collector streets. It accommodates community commercial uses that do not have outside storage or sales.

8. In Ordinance 2550, Sussex County Council desired to create a more specific C-2 Medium Commercial zoning district with smaller, more related uses within the District to promote better planning and predictability within Sussex County.
9. The applicant proposes to utilize the site as a bank with drive-through service. Community Bank Delaware has an established presence in Sussex County and is locally owned and locally managed. Their mission is to build and maintain the highest possible degree of customer, shareholder, employee, and community loyalty.
10. There are no wetlands on the property; the property is located in a Flood Zone X Unshaded; there may be historical features on the property, located in the north-west portion of the site and will not be impacted by any construction activity; stormwater will be onsite and use infiltration as its primary BMP for handling stormwater runoff; the properties are not in any Groundwater Protection Zones; the property is served public water and sewer service (Tidewater.)
11. The 2020 Strategies for State Policies and Investment Levels Map identifies the area as being in Investment Levels 1 and 2. These areas are designated growth areas where investments are directed in accordance with state strategies.



12. The proposed rezoning meets the general purpose of the Zoning Ordinance being located in an appropriate location meeting the purpose of this district and the future land use plans, strategies and objectives of the comprehensive plan that promotes growth and development in area that is located along a Principal Arterial that will dedicate sufficient right-of-way for expansion of the highway and where a general mixture of commercial and service activity now exists, which is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.

U:\Account\ETDGT000001 - Rt. 5 and Rt. 24\DESIGN\NETD000001_VSP.dwg PLOTTED: 2/26/2021 1:10 PM BY: bhann.j.davis PROJECT STATUS: — PLOT TITLE: Pennoni\INC.sab



- LEGEND**
- PROPERTY LINE
 - ADJACENT PROPERTY LINE
 - RIGHT-OF-WAY LINE
 - CAPPED REBAR
(PER DELDOT CONTRACT NUMBER T201200903)
- GENERAL NOTES:**
- THE BOUNDARY INFORMATION SHOWN ON THIS PLAN WAS TAKEN FROM DOCUMENTS OF PUBLIC RECORD. NO FIELD SURVEY VERIFICATION WAS CONDUCTED BY PENNONI.
 DEED REFERENCE:
 -DEED BOOK 1746, PAGE 63.
 -DEED BOOK 1771, PAGE 282.
 -DEED BOOK 1825, PAGE 30.
 -DEED BOOK 1892, PAGE 246.
 -DEED BOOK 1892, PAGE 248.
 -DEED BOOK 5308, PAGE 298.
 -DELDOT HSIP, SR 24 AT SR 5/SR23 INTERSECTION IMPROVEMENTS CONTRACT NUMBER T201200903
 -ALTA/NSPS LAND TITLE SURVEY PERFORMED BY CONTROL POINT ASSOCIATES, INC. (DATED 1-3-2019).
 - THIS SURVEY DOES NOT VERIFY TO THE LOCATION AND/OR EXISTENCE OF EASEMENTS OR RIGHTS OF WAY CROSSING SUBJECT PROPERTY AS NO TITLE SEARCH WAS REQUESTED OR PROVIDED.
 - THIS PROPERTY APPEARS ON SUSSEX COUNTY TAX MAP AS 234-23.00-262.00.
 - THERE ARE NO WETLAND AREAS ON THE PROPERTY, PER THE DNREC ENVIRONMENTAL NAVIGATOR WEBSITE.
 - THE PROPERTY IS LOCATED IN ZONE "X" ON THE FEMA FLOOD INSURANCE RATE MAP NUMBER 10005C340K MAP REVISED MARCH 16, 2015. ZONE "X" IS AN AREA DETERMINED TO BE OUTSIDE THE 500 YEAR FLOODPLAIN. (NO IMPACT). ZONE "A" IS AN AREA DETERMINED TO HAVE NO BASE FLOOD ELEVATIONS.
 - PARCEL 234-23.00-262.00 (ALSO KNOWN AS PARCEL 10-L) CONTAINS AN UNMARKED CEMETERY AND ANY WORK OR CONSTRUCTION ACTIVITIES BEYOND THE ILLUSTRATED LOC ARE STRICTLY PROHIBITED. TWO WEEKS PRIOR TO CONSTRUCTION ADJACENT TO PARCEL 10-L, DELDOT ARCHAEOLOGIST KYLE EDWARDS MUST BE CONTACTED TO ARRANGE FOR CONSTRUCTION MONITORING. IF GRAVE SHAFTS, HUMAN REMAINS, OR GRAVE MARKERS ARE ENCOUNTERED DURING CONSTRUCTION, ALL WORK IN THE AREA SHALL STOP IMMEDIATELY AND DELDOT ARCHAEOLOGIST KYLE E. EDWARDS WILL BE CONTACTED PER DELDOT CONTRACT NUMBER T201200903.

SITE DATA:

| | |
|-----------------------------|---|
| TAX MAP NUMBERS: | 234-23.00-262.00 |
| OWNER INFO: | TRANTINO & SANDRA NORWOOD PO BOX 205 HARBESON, DE 19951 |
| SITE ADDRESS: | 31816 INDIAN MISSION ROAD MILLSBORO, DE 19966 INDIAN RIVER HUNDRED SUSSEX COUNTY |
| EXISTING TOTAL ACREAGE: | 1.76 ACRES± (TOTAL) |
| FUTURE LAND USE AREA: | COMMERCIAL/ COASTAL AREA 2018 SUSSEX COUNTY COMPREHENSIVE PLAN |
| ZONING EXISTING PROPOSED: | AR-1 C-2 MEDIUM COMMERCIAL (ARTICLE XIB) |
| PRESENT USE: | RESIDENTIAL DWELLINGS |
| PROPOSED USE: | COMMUNITY BANK |
| SEWER PROVIDER: | PUBLIC (SUSSEX COUNTY) |
| WATER PROVIDER: | PUBLIC (TIDEWATER UTILITIES) |
| BUILDING RESTRICTION LINES: | FRONT - 60 FEET SIDE - 5 FEET and 20 FEET (115-83.15 B. (1) & (2)) REAR - 30 FEET (115-83.15 B. (2)) |

Pennonni
PENNONI ASSOCIATES INC.
 18072 Davidson Drive
 Milton, DE 19968
 T 302.664.8030 F 302.664.8054

ALL DIMENSIONS MUST BE VERIFIED BY CONTRACTOR
 OWNER MUST BE NOTIFIED OF ANY
 DISCREPANCIES BEFORE PROCEEDING WITH WORK

ALAN M. DECKTOR
 LICENSE
 No. 17774
 DELAWARE
 PROFESSIONAL ENGINEER
 2/26/2021

RT. 5 AND RT. 24 COMMUNITY BANK
 31816 INDIAN MISSION ROAD
 MILLSBORO, DE 19966
BOUNDARY PLAT
 COMMUNITY BANK
 16882 KINGS HIGHWAY
 LEWES, DE 19958

| NO. | DATE | REVISIONS | BY |
|-----|------|-----------|----|
| | | | |
| | | | |
| | | | |
| | | | |

ALL DOCUMENTS PREPARED BY PENNONI ASSOCIATES ARE INSTRUMENTS OF SERVICE IN RESPECT OF THE PROJECT. THEY ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY OWNER OR OTHERS ON THE EXTENSIONS OF THE PROJECT OR ON ANY OTHER PROJECT. ANY REUSE WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY PENNONI ASSOCIATES FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT OWNERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO PENNONI ASSOCIATES, AND OWNER SHALL INDEMNIFY AND HOLD HARMLESS PENNONI ASSOCIATES FROM ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES ARISING OUT OF OR RESULTING THEREFROM.

| | |
|---------------|------------|
| PROJECT | ETDGX20001 |
| DATE | 2021-02-24 |
| DRAWING SCALE | 1"=30' |
| DRAWN BY | SJD |
| APPROVED BY | AMD |

V-0201
 SHEET 1 OF 1

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 9th, 2021

Application: CZ 1944 Executive Lawn Property Management, LLC

Applicant: Executive Lawn Property Management, LLC c/o John Huss
P.O. Box 91
Nassau, DE 19969

Owner: Executive Lawn Property Management, LLC, a Delaware LLC
P.O. Box 91
Nassau, DE 19969

Site Location: The property is lying on the north side of Lewes Georgetown Highway (Route 9), approximately 0.55 mile west of Prettyman Road (S.C.R. 254).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Zoning: Medium Commercial (C-2) Zoning District

Comprehensive Land Use Plan Reference: Low Density Area

Councilmanic District: Mr. Schaeffer

School District: Indian River School District

Fire District: Georgetown Fire Department

Sewer: Private (On-Site Septic)

Water: Private (On-Site Well)

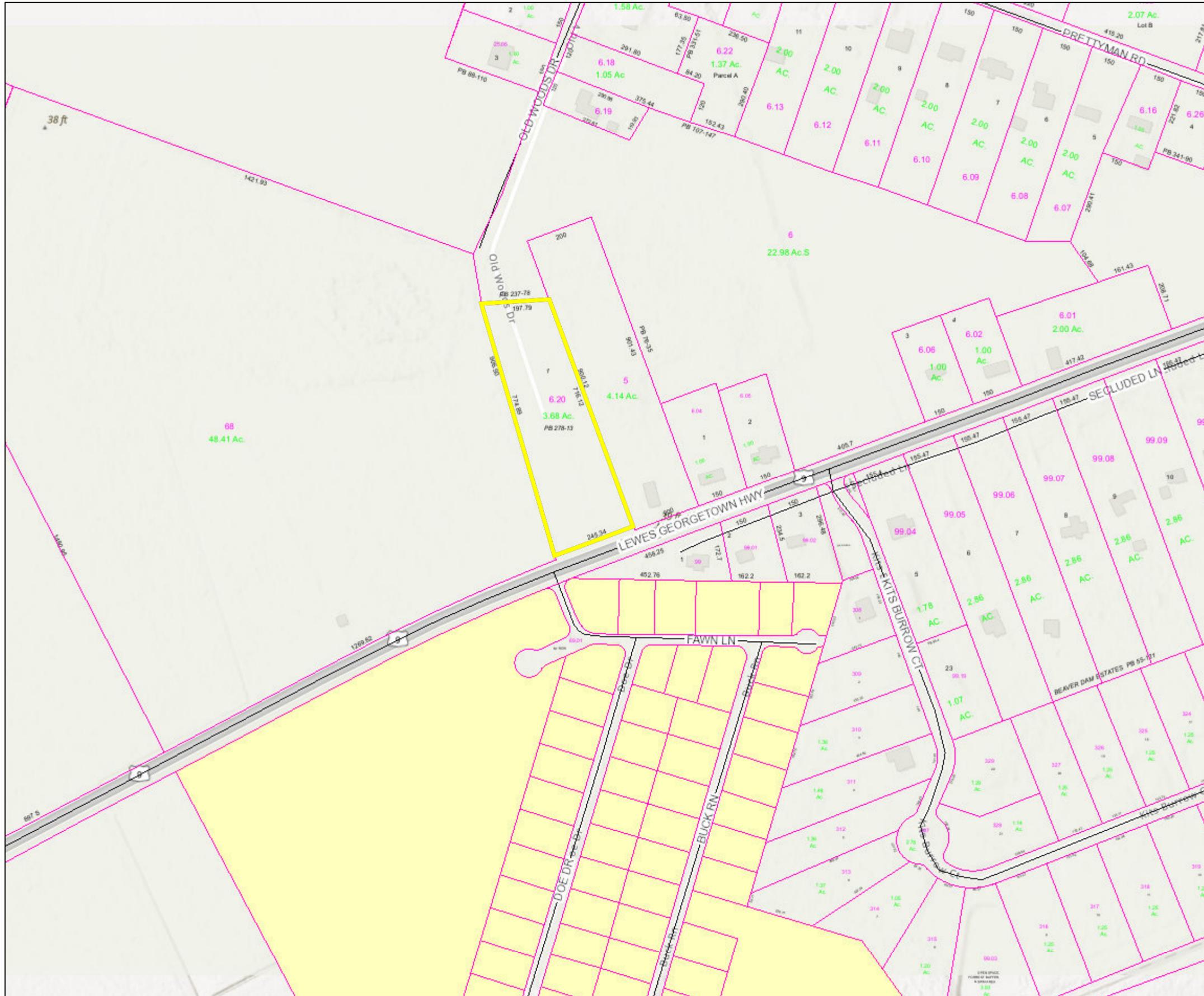
Site Area: 3.68 acres +/-

Tax Map ID.: 235-30.00-6.20





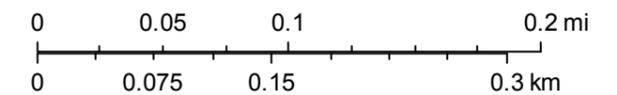
Sussex County



| | | |
|------------------------|------------------------|------|
| PIN: | 235-30.00-6.20 | |
| Owner Name | EXECUTIVE PROPERTY | LAWN |
| Book | 4899 | |
| Mailing Address | PO BOX 91 | |
| City | NASSAU | |
| State | DE | |
| Description | LOT 1 W / IMPROVEMENTS | |
| Description 2 | N/A | |
| Description 3 | N/A | |
| Land Code | | |

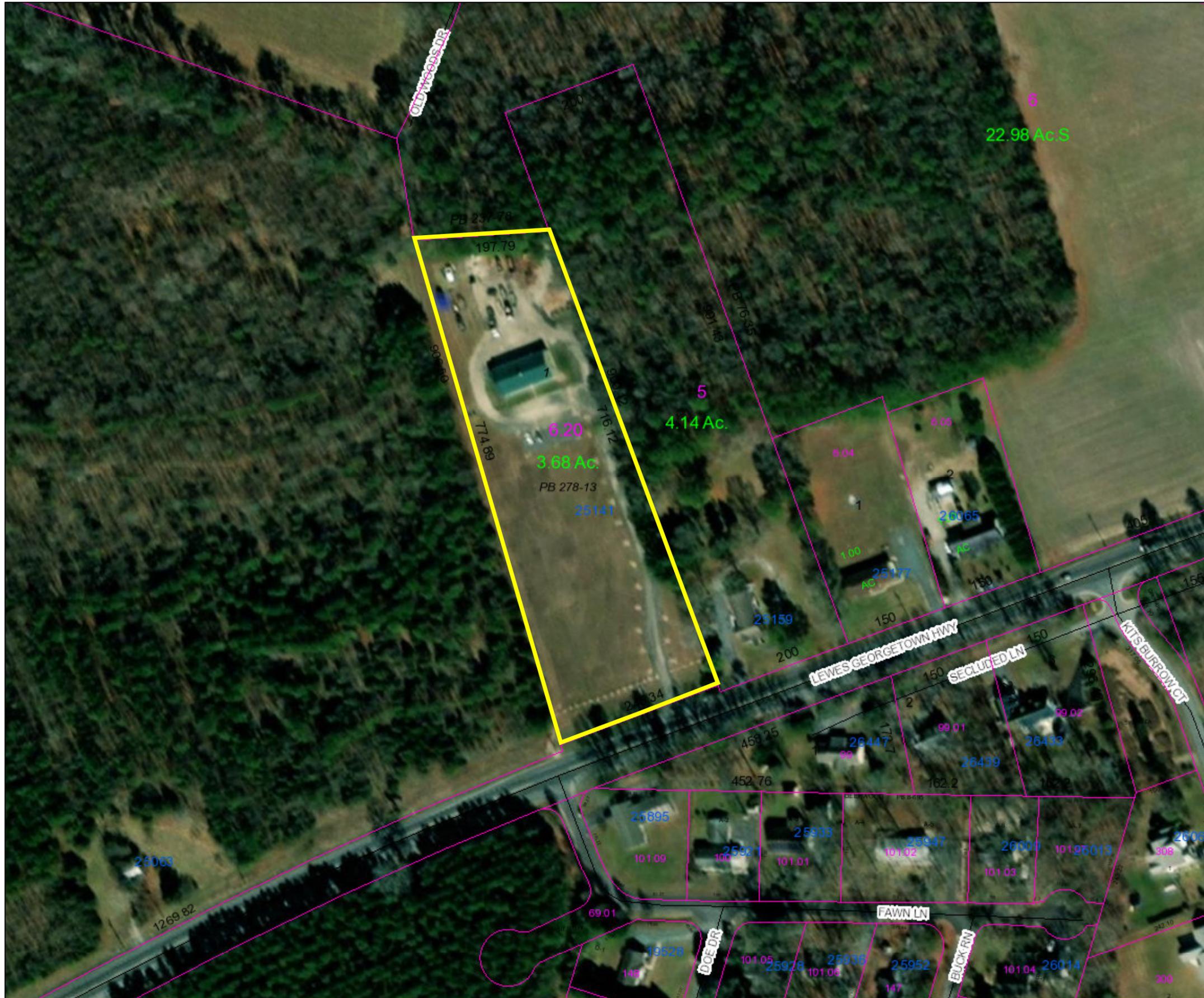
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 Override 1
- polygonLayer
 Override 1
- Tax Parcels
- Streets

1:4,514





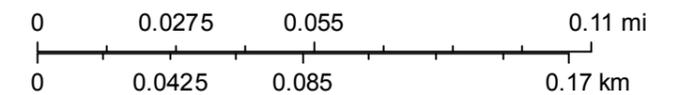
Sussex County



| | | |
|------------------------|------------------------|------|
| PIN: | 235-30.00-6.20 | |
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| State | DE | |
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| Description 2 | N/A | |
| Description 3 | N/A | |
| Land Code | | |

- polygonLayer**
 - Override 1
- polygonLayer**
 - Override 1
- ⋯ Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:2,257



| FULLNAME | Second_Owner_Name | MAILINGADD | CITY | STATE | ZIPCODE | PIN |
|---|--|----------------------------|-------------|-------|---------|------------------|
| EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 | 235-30.00-6.20 |
| JOHN FLOYD LINGO III TRUSTEE | ROBERTA ANNE LINGO TRUSTEE REVOCABLE TRUST | 24877 LEWES GEORGETOWN HWY | GEORGETOWN | DE | 19947 | 135-11.00-68.00 |
| LESLIE K. ELLIOTT TRUSTEE REVOCABLE TRUST | JESSICA VIOLA HAMMOND | 24849 LEWES GEORGETOWN HWY | GEORGETOWN | DE | 19947 | 135-11.00-69.01 |
| GEORGETOWN BUSINESS PLAZA LLC | | 859 GOLF LINKS LN | MAGNOLIA | DE | 19962 | 235-30.00-6.00 |
| PRETTYMAN ROAD DEVELOPMENT LLC | | 16255 SUSSEX HWY | BRIDGEVILLE | DE | 19933 | 235-29.00-25.00 |
| ISLAMIC CENTER OF EASTERN SHORE INC | | 16500 SEASHORE HWY | GEORGETOWN | DE | 19947 | 235-30.00-5.00 |
| LAUREN & SAMMIE PRICE | | 25921 FAWN LANE | GEORGETOWN | DE | 19947 | 235-30.00-100.00 |
| SHIRLEY J. WILLEY | | 14114 S UNION CHURCH RD | ELLEDALE | DE | 19941 | 235-30.00-101.09 |
| DARRIN J. & DAWN SINGLEY | | 26447 SECLUDED LN | GEORGETOWN | DE | 19947 | 235-30.00-99.00 |

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 3, 2021
RE: Staff Analysis for CZ 1944 Executive Lawn Property Management, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1944 Executive Lawn Property Management, LLC to be reviewed during the December 9, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 235-30.00-6.20 to allow for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial District (C-2). The property is lying on the north side of Lewes-Georgetown Highway (Route 9), approximately 0.55 mile west of Prettyman Road (S.C.R. 254) at 25141 Lewes-Georgetown Highway in Georgetown, Delaware. The parcel to be rezoned contains 3.68- acres +/-.

It is worth noting that the property was also the subject of a previously approved Conditional Use application (C/U 2093 John Huss & DA Huss, Inc. (Executive Lawns)) to permit a landscape business with equipment storage to be located on the property. The Sussex County Council approved this application at their meeting of September 26, 2017 through Ordinance No. 2521.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Low Density Area." The properties to the north, south, east, and west also have the land use designation of Low Density Area.

As outlined within the 2018 Sussex County Comprehensive Plan, Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures. The primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents. Commercial uses in these residential areas should be limited in their location, size, and hours of operation. More intense commercial uses should be avoided in these areas. Institutional and commercial uses may be appropriate depending on surrounding uses.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north, east and west are also zoned Agricultural Residential (AR-1) Zoning District. The properties



to the south on the opposite side of Route 9 are all zoned Agricultural Residential (AR-2). To the east, at the intersection of Lewes-Georgetown Highway (Route 9) and Harbeson Road (Route 5) are several parcels with various zoning designations including General Commercial (C-1), Commercial Residential (CR-1), Medium Density Residential (MR) and Heavy Industrial (HI-1).

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Medium Commercial (C-2) Zoning District is listed as an applicable zoning district in the Low Density Area.

Since 2011, there have been (6) Change of Zone application within a 0.5-mile radius of the application site. The first application is Change of Zone 1726 Robert M. and Sandra E. Davidson for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential District (CR-1) which was approved by the Sussex County Council on Tuesday, March 26, 2013 and adopted through Ordinance No. 2298. The second application is Change of Zone 1778 John Floyd Lingo for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Commercial Residential District (CR-1) which was approved by the Sussex County Council on Tuesday, August 11, 2015 and adopted through Ordinance No. 2412. The third application is Change of Zone 1838 Two Farms, Inc. for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Neighborhood Business District (B-1) which was approved by the Sussex County Council on Tuesday, January 9, 2018 through Ordinance No. 2539. The fourth application is Change of Zone 1868 Ronald Nanney for a change of zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial District (C-2) which was denied by the Sussex County Council on Tuesday, April 30, 2019.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial District (C-2) could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.

File #: CZ1944
20210720

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use
Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

25141 Lewes Georgetown Highway, Georgetown, DE 19947

Type of Conditional Use Requested:

N/A; Request for change of zone from AR-1 Agricultural Residential to C2 Medium Commercial District for operation of landscape business with equipment storage.

Tax Map #: 235-30.00-6.20 **Size of Parcel(s):** +/-3.68 Acres

Current Zoning: AR-1 **Proposed Zoning:** C-2 **Size of Building:** _____

Land Use Classification: Commercial

Water Provider: _____ **Sewer Provider:** _____

Applicant Information

Applicant Name: Executive Lawn Property Management LLC c/o John Huss
Applicant Address: PO Box 91
City: Nassau State: DE Zip Code: 19969
Phone #: (302) 664-1439 E-mail: executivelawns1@gmail.com

Owner Information

Owner Name: Executive Lawn Property Management LLC, a Delaware LLC
Owner Address: PO Box 91
City: Nassau State: DE Zip Code: 19969
Phone #: (302) 664-1439 E-mail: executivelawns1@gmail.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Baird Mandalas Brockstedt LLC c/o Glenn Mandalas, Esquire
Agent/Attorney/Engineer Address: 1314 Savannah Road, Suite 1
City: Lewes State: DE Zip Code: 19958
Phone #: (302) 645-2262 E-mail: mackenzie@bmbde.com



Check List for Sussex County Planning & Zoning Applications

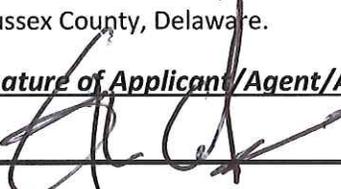
The following shall be submitted with the application

- Completed Application**
- Provide eight (8) copies of the Site Plan or Survey of the property**
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- Provide Fee \$500.00**
- Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- DeIDOT Service Level Evaluation Request Response**
- PLUS Response Letter** (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

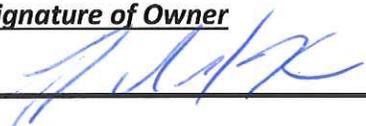
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 9/14/21

Signature of Owner



Date: 9/14/21

For office use only:

Date Submitted: 5/19/21

Fee: \$500.00 Check #: 3004

Staff accepting application: NT

Application & Case #: CZ1944/202107720

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____ Recommendation of PC Commission: _____

Date of CC Hearing: _____ Decision of CC: _____

ORDINANCE NO. 2521

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS

WHEREAS, on the 31st day of March 2017, a conditional use application, denominated Conditional Use No. 2093, was filed on behalf of John Huss; and

WHEREAS, on the 24th day of August 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of September 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2093 be approved with conditions; and

WHEREAS, on the 26th day of September 2017, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2093 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road, and being more particularly described per the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 3.740 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

- A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign, not to exceed 32 square feet, located on the side of the building, shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2521 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A.** This is the application of John Huss for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a landscape business with equipment storage be located on certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 3.740 acres, more or less (located on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road) (Tax I.D. No. 235-30.00-6.20) (911 Address: None Available).
- B.** Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Glen Mandalas, Esquire, with Baird Mandalas Brockstedt, LLC, and Mr. John Huss were present on behalf of the application; that they are proposing a 3,200 square foot building for equipment storage; that vehicles will be stored in the back of the property; that three (3) vehicles will not be located within the building and will be stored behind the building; that he has thirteen (13) employees; that he would like to keep hours of operation of 7 a.m. – 5:00 p.m.; that employees show up on site and pick up a work vehicle and leave so there is not a lot of traffic during the day; that there is no storage of chemicals on the site; that there are no major deliveries to the site; and that they typically load and unload lawn mowers on trucks in the morning that may create some noise.
- C.** Council also found that the Delaware Turkish Educational Foundation is located to the east of the site where they plan to plant an evergreen buffer; that the Deerwood subdivision with approximately sixty-five (65) homes is across the street with some buffer; that to the west of the site is a 48-acre wooded area; that the use is consistent with uses and zonings along Route 9; that there will be no manufacturing or dying of mulch on site; that they will screen the dumpsters; that the applicant is typically on site around 6:30 a.m. to do paperwork and employees show up on site at 7 a.m., leave by 7:30 a.m. and come back no later than 5:30 p.m.; that work on equipment is done elsewhere and not on the site; that they have no mechanic on staff; that they would like a sign on the building; that they will provide low voltage lighting for night; that the Route 9 entrance will be the only access to the site; that he has eight (8) trucks and most are stored within the building; that no materials are stored onsite; that he purchases the material from Stockley Materials and dump at the end of the day there; that he keeps a clean site; that he recognizes the potential for interconnectivity with the adjacent properties; and that there are no deed restrictions regarding the operation of a business on the site.
- D.** Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a. – m.), as amended, Council found that:
- 1.** The property is located along Route 9, which is an appropriate location for this limited type of use.
 - 2.** The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.
 - 3.** The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site. Also, there will not be any major deliveries to the site as part of the business.

4. **There will be no retail sales from the property, and the use is limited in nature. It will not adversely affect neighboring properties, roadways or traffic.**
5. **The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.**
6. **Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to thirteen (13) conditions (A - M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 77B
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

March 31, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Executive Lawn Property Management LLC, a Delaware LLC** proposed land use application, which we received on March 23, 2021. This application is for an approximately 3.68- acre parcel (Tax Parcel: 235-30.00-6.20). The subject land is located north of Lewes Georgetown Highway (Sussex Road 18). The subject land is currently zoned AR- 1 (Agricultural Residential) with a proposed zoning of C-2 (Medium Commercial) for a landscaping business with equipment storage.

Per the 2019 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along Lewes Georgetown Highway (Sussex Road 18), from Steiner Road (Sussex Road 320) to Harbeson Road (Sussex Road 22), are 16,128 vehicles per day and 20,738 vehicles per day, respectively.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse
Page 2 of 2
March 31, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff

cc: Executive Lawn Property Management LLC, a Delaware LLC, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CZ 1944 Executive Lawn Property Management, LLC**

APPLICANT: **Executive Lawn Property Management, LLC**

FILE NO: **NCPA-5.03**

TAX MAP &
PARCEL(S): **235-30.00-6.20**

LOCATION: **Lying on the northwest corner of Lewes-Georgetown Highway
(Rt. 9) and Prettyman Road**

NO. OF UNITS: **Upzone from AR-1 to C-2**

GROSS
ACREAGE: **3.68**

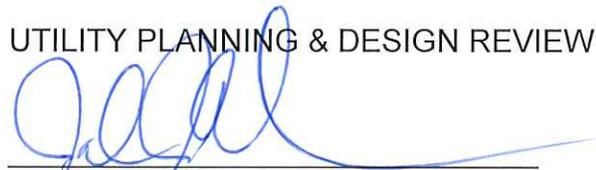
SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **2**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 3**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **N/A** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **N/A** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **The proposed CZ is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service at this time.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned



BAIRD
MANDALAS
BROCKSTEDT LLP

EXHIBIT A

Property and Deed Information

Property Information

Property Location: 25141 LEWES GEORGETOWN HWY
 Unit:
 City: GEORGETOWN
 State: DE
 Zip: 19947
 Class: COM-Commercial
 Use Code (LUC): CO-COMMERCIAL
 Town: 00-None
 Tax District: 235 - BROAD KILL
 School District: 1 - INDIAN RIVER
 Council District: 3-Schaeffer
 Fire District: 77-Georgetown
 Deeded Acres: 3.6800
 Frontage: 0
 Depth: .000
 Irr Lot:
 Zoning 1: -
 Zoning 2: -
 Plot Book Page: 278 13/PB
 100% Land Value: \$18,400
 100% Improvement Value: \$24,500
 100% Total Value: \$42,900

Legal

Legal Description: LOT 1 W / IMPROVEMENTS

Owners

| Owner | Co-owner | Address | City | State | Zip |
|-------------------------|----------------|-----------|--------|-------|-------|
| EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 |

Sales

| Sale Date | Book/Page | Sale Price | Stamp Value | Parcels Sold | Grantee/Buyer |
|------------|-----------|--------------|-------------|--------------|-------------------------|
| 06/06/2018 | 4899/79 | \$185,000.00 | | | EXECUTIVE LAWN PROPERTY |

Owner History

| Tax Year: | Owner: | Co-owner | Address: | City: | State: | Zip: | Deed Book/Page: |
|-----------|-------------------------|----------------|--------------|--------|--------|-------|-----------------|
| 2020 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 | 4899/79 |
| 2019 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | PO BOX 91 | NASSAU | DE | 19969 | 4899/79 |
| 2018 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | 113 FALLS RD | MILTON | DE | 19968 | 4899/79 |
| 2017 | EXECUTIVE LAWN PROPERTY | MANAGEMENT LLC | 113 FALLS RD | MILTON | DE | 19968 | 4899/79 |

Land

| Line | Class | Land Use Code | Act Front | Depth | Deeded Acres | Ag |
|------|-------|---------------|-----------|-------|--------------|----|
| 1 | RES | CO | 0 | 0 | 3.6800 | |

Land Summary

| | |
|-----------------|--------|
| Line | 1 |
| 100% Land Value | 18,700 |

100% Values

100% Land Value
\$18,400

100% Improv Value
\$24,500

100% Total Value
\$42,900

50% Values

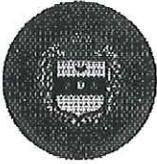
50% Land Value,
\$9,200

50% Improv Value
\$12,250

50% Total Value
\$21,450

Permit Details

| Permit Date: | Permit #: | Amount: | Note 1 |
|--------------|-----------|----------|--|
| 05-SEP-2018 | 201805920 | \$50,000 | EXECUTIVE LAWNS PROPERTY MANAGEMENT LLC - STORAGE BLDG |



Sussex County

Scott Dailey
Recorder of Deeds
Georgetown, DE 19947

Instrument Number: 2018-20515

Recorded As: EREC-DEED

Recorded On: June 06, 2018

Recorded At: 02:50:14 pm

Number of Pages: 4

Book-VI/Pg: Bk-D VI-4899 Pg-79

Total Rec Fee(s): \$7,458.00

Parties:

Direct- PRETTYMAN SANDRA M

Indirect- EXECUTIVE LAWN PROPERTY MANAGEMENT LLC

Receipt Number: 871971

Processed By: Sue D

** Examined and Charged as Follows **

RECEIVED ASSESSMENT DIVISION OF SUSSEX COUNTY

| | | | | | |
|----------------------------|----------|-------------------|-------------------|-------------------|------------|
| Erec-D | \$ 58.00 | | | | |
| | | Tax Amount | Consid Amt | RS#/CS# | |
| STATE AND COUNTY OF SUSSEX | | \$ 7400.00 | \$ 185000.00 | State of Delaware | \$ 4625.00 |
| | | | | Sussex County | \$ 2775.00 |
| Tax Charge: | | \$ 7400.00 | | | |

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Sussex County

*****DO NOT REMOVE - THIS PAGE IS PART OF THE RECORDED DOCUMENT*****

TAX MAP AND PARCEL #: 2-35 30.00 6.20

PREPARED BY & RETURN TO:

Baird Mandalas Brockstedt

6 S. State Street

Dover, DE 19901

File No. RE18-0005/MW

NO NEW SURVEY MADE OR REQUESTED

THIS DEED, made this 31st day of May, 2018,

- BETWEEN -

SANDRA M. PRETTYMAN, of 26068 Prettyman Road, Georgetown, DE 19947, party of the first part,

- AND -

EXECUTIVE LAWN PROPERTY MANAGEMENT LLC, a Delaware Limited Liability Company, of 113 Falls Road, Milton, DE 19968, party of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of **One Hundred Eighty-Five Thousand and 00/100 Dollars (\$185,000.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the party of the second part, and its heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

ALL that certain lot, piece or parcel of land, lying and being situated in Broadkill Hundred, Sussex County, State of Delaware, being designated as Lot 1, "Subdivision Survey Plan Prepared for Sandra M. Prettyman", prepared by Adams-Kemp Associates, Inc., Professional Land Surveyors, as per Survey Plan No. 160615-D recorded in Plot Book 237, Page 78 in the Office of the Recorder of Deeds in and for Sussex County in the County Administration Building in Georgetown, Delaware, more particularly described as follows to wit:

BEGINNING at a found concrete monument along the northerly right of way line of U.S. Route 9 (A.K.A. Seashore Highway at 60 feet wide) at a corner for this lot and lands now or formerly of the American Turkish Friendship Association; said found concrete monument being located 2,728 feet in a Westerly direction from County Road 254; thence along the Northerly right of way line of U.S. Route 9, South 69 deg. 27 min. 03 sec. West 246.07 feet to a found concrete monument at a corner for this lot and lands now or formerly of John Floyd Lingo,

Trustee, et al.; Thence along the line of lands now or formerly of John Floyd Lingo, Trustee, et al., North 16 deg. 21 min. 03 sec. West 774.89 feet to a set iron bar; thence along a new line, North 86 deg. 06 min. 39 sec. East 197.79 feet to a set iron bar along the line of lands now or formerly of the American Turkish Friendship Association; Thence along the line of lands now or formerly of the American Turkish Friendship Association, South 20 deg. 32 min. 14 sec. East 716.12 feet to the point and place of beginning. Containing with described metes and bounds 3.740 acres of lands be the same more or less.

BEING part of the same lands conveyed to Francis H. Prettyman and Sandra Prettyman from Francis H. Prettyman, Jr. and Francis H. Prettyman and Sandra M. Prettyman, by deed dated February 11, 2014 and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Deed Book 4226, Page 280.

Francis H. Prettyman did depart this life on or about February 22, 2015 leaving Sandra Prettyman as the surviving joint tenant.

SUBJECT to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

IN WITNESS WHEREOF, the party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in the presence of:

Sandra M. Prettyman (SEAL)

STATE OF FLORIDA, COUNTY OF Alachua : to-wit

BE IT REMEMBERED, that on ²⁰¹⁸ June 31, 2018, personally came before me, the subscriber, Sandra M. Prettyman, party of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

Notary Public



DAVID C SHEPHERD
MY COMMISSION # GG 052274
EXPIRES: December 4, 2020
Bonded Third Budget Notary Services

My Commission Expires: 12-4-2020

ORDINANCE NO. 2521

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS

WHEREAS, on the 31st day of March 2017, a conditional use application, denominated Conditional Use No. 2093, was filed on behalf of John Huss; and

WHEREAS, on the 24th day of August 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of September 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2093 be approved with conditions; and

WHEREAS, on the 26th day of September 2017, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2093 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road, and being more particularly described per the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 3.740 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

- A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign, not to exceed 32 square feet, located on the side of the building, shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2521 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of John Huss for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a landscape business with equipment storage be located on certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 3.740 acres, more or less (located on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road) (Tax I.D. No. 235-30.00-6.20) (911 Address: None Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Glen Mandalas, Esquire, with Baird Mandalas Brockstedt, LLC, and Mr. John Huss were present on behalf of the application; that they are proposing a 3,200 square foot building for equipment storage; that vehicles will be stored in the back of the property; that three (3) vehicles will not be located within the building and will be stored behind the building; that he has thirteen (13) employees; that he would like to keep hours of operation of 7 a.m. – 5:00 p.m.; that employees show up on site and pick up a work vehicle and leave so there is not a lot of traffic during the day; that there is no storage of chemicals on the site; that there are no major deliveries to the site; and that they typically load and unload lawn mowers on trucks in the morning that may create some noise.**
- C. Council also found that the Delaware Turkish Educational Foundation is located to the east of the site where they plan to plant an evergreen buffer; that the Deerwood subdivision with approximately sixty-five (65) homes is across the street with some buffer; that to the west of the site is a 48-acre wooded area; that the use is consistent with uses and zonings along Route 9; that there will be no manufacturing or dying of mulch on site; that they will screen the dumpsters; that the applicant is typically on site around 6:30 a.m. to do paperwork and employees show up on site at 7 a.m., leave by 7:30 a.m. and come back no later than 5:30 p.m.; that work on equipment is done elsewhere and not on the site; that they have no mechanic on staff; that they would like a sign on the building; that they will provide low voltage lighting for night; that the Route 9 entrance will be the only access to the site; that he has eight (8) trucks and most are stored within the building; that no materials are stored onsite; that he purchases the material from Stockley Materials and dump at the end of the day there; that he keeps a clean site; that he recognizes the potential for interconnectivity with the adjacent properties; and that there are no deed restrictions regarding the operation of a business on the site.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 5) and Conditions (6a. – m.), as amended, Council found that:**
 - 1. The property is located along Route 9, which is an appropriate location for this limited type of use.**
 - 2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.**
 - 3. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site. Also, there will not be any major deliveries to the site as part of the business.**

4. **There will be no retail sales from the property, and the use is limited in nature. It will not adversely affect neighboring properties, roadways or traffic.**
5. **The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.**
6. **Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to thirteen (13) conditions (A - M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**

THE MINUTES OF THE REGULAR MEETING OF OCTOBER 1, 2019

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 1, 2019, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director of Planning & Zoning, Mr. Jamie Whitehouse – Planning & Zoning Manager and Mrs. Samantha Bulkilvish – Planner I.

Chairman Wheatley announced that the hearing for C/U 2189 Grace Malone, would not be heard by the Commission at this meeting and would be re-advertised for a future meeting of the Planning & Zoning Commission. Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to approve the Agenda as posted and circulated and with the removal of case C/U 2189 Grace Malone. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described the procedures for the public hearings before the Planning and Zoning Commission.

C/U 2189 Grace Malone

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an events venue to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.59 acres. The property being a landlocked parcel of land lying on the south side of Laurel Road, approximately 0.38 miles east of Sussex Highway (Route 13). 911 Address: N/A. Tax Parcel: 332-2.00-75.00.

Chairman Wheatley announced that the hearing for C/U 2189 Grace Malone, would not be heard by the Commission at this meeting and would be re-advertised for a future meeting of the Planning & Zoning Commission.

C/Z 1890 W&B Hudson Family Ltd

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and an MR Medium Density Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 37.08 acres, more or less. The property is lying on the south side of Lewes-Georgetown Highway (Route 9), approximately 340 feet east of Harbeson Road (Route 5) and on the east side of Harbeson Road (Route 5), approximately 456 feet south of Lewes-Georgetown Highway (Route 9). 911 Address: N/A. Tax Parcels: 235-30.00-62.00, 64.00, 66.00, 67.00, 70.00, & 72.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, a Site Plan, and Exhibit Booklet, the Applicant's response back to the Preliminary Land Use Service

S-19-31 Lands of Robert & Debora Reed

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for 24 single-family condominium units, parking and other site improvements to be located off Savannah Road. A Conditional Use for multi-family dwellings in a Medium Residential Zoning District was approved on June 18, 2019, by the Sussex County Council. The Preliminary Site Plan complies with the Zoning Code. Tax Parcel: 335-12.06-1.00. Zoning: MR (Medium Residential District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan with final by staff subject to receipt of all agency approval. Motion carried 5-0.

2018-03 Fox Haven II Subdivision

Preliminary Amenities Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Amenity Site Plan for the construction of a clubhouse, swimming pool, and other site improvements. The Planning and Zoning Commission approved Phase 1 of the Fox Haven Subdivision on February 28, 2019, for 47 lots of the 95 single-family lots. The Planning and Zoning Commission approved the request to amend the wording of Condition H, "*The development shall be served by its own on-site active amenities such as pool and clubhouse. The developer shall begin construction of the active amenities before the issuance of the 30th residential Building Permit and the developer shall complete all amenities prior to the issuance of the 60th residential Building Permit*". The Preliminary Amenities Site Plan complies with the Zoning Code. Tax Parcel: 533-11.00-48.02. Zoning: GR (General Residential Zoning District). The staff is in receipt of all necessary agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Preliminary Amenities Plan and Final Amenities Plan. Motion carried 4-0. Ms. Wingate abstained.

2017-15 Kindleton

Preliminary Amenities Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Amenities Site Plan for the construction of a bathhouse, swimming pool, and other site improvements. The Final Subdivision Plan was approved for 90-lots by the Planning and Zoning Commission on March 14, 2019. The approval included Condition K "*The developer shall complete all amenities within 2 years of the issuance of the first residential Building Permit.*" The Preliminary Amenities Site Plan complies with the Zoning Code. Tax Parcel: 334-11.00-81.06. Zoning: AR-1 (Agricultural Residential Zoning District). The staff is in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Amenities Plan and a Final. Motion carried 5-0.

Jay Huss (CU 2093)

Request for Clarification of Conditions of Approval

Mr. Whitehouse advised the Commission that this is a request for clarification of Conditions of approval associated with Conditional Use 2093 approved by County Council on September 26, 2017. Condition 'A' requires that *"This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site"*. Following discussions with Staff, the Applicant is requesting clarification as to two matters. The first matter is whether the proposed additional business activity falls within the definition of *"nursery"* and the second matter is whether the effect of Condition 'A' is to prevent use of part of the site for the activities proposed. The Applicant has stated that, in addition to the landscape business, they would like to acquire a stock of plants off-premises to be kept, maintained, nurtured, treated, and possibly re-potted on-premises. Mature plants would eventually be used in connection with Mr. Huss' lawn care and landscaping business or sold to the public from the premises. The Applicant does not propose the sale of any gardening tools or hardscaping materials and does not desire to construct any additional permanent structures on the property. The Applicant has submitted a supporting letter, outlining that they believe the activity described to fall within the definition of a *"nursery"*, and that case law suggests that Conditions of Approval for a Conditional Use cannot prohibit use that is otherwise permitted within the AR-1 Zoning District. Tax Parcel 235-30.00-6.20. Zoning: AR-1 (Agricultural Residential Zoning District).

Mr. Robertson stated can they have a nursery on the site that has a Conditional Use on the site; that a nursery is a permitted use in AR-1 (Agricultural Residential District) just like farming or placing a house on the site; that the Commission cannot through the Conditional Use process effectively 'un-permit' something that is permitted by the Zoning Code; that Chairman Wheatley stated a Conditional Use is for something additional; that if it is permitted under the AR-1 District then it is permitted; that there was a prohibition on retail sales but that would be the type of things that would not be permitted through the underlying AR-1 Zone; that the extra activity would include the sale of materials; that Mr. Robertson stated yes it would be an extra activity for the sales of materials; that the Applicant would still have to comply with what a nursery is; that it was approved as a landscape with equipment storage business and if there are plants on the site, it would be used as part of the landscaping business; that there is a definition for nurseries that talks about growing plants, trees, and shrubs; that if they can do a nursery that is permitted in a AR-1 District, the question is whether they are just bringing in truck loads of nursery products and putting them out for sale the site and whether is that a nursery or not; that if truck loads of plants are being brought to the property and the plants are not then planted, is that a nursery or not; that for an example, like a commercial garden center such as Lowes; that if a nursery is permitted, then they would have to operate like a nursery; that Ms. Stevenson asked if the Applicant would have to plant all the plants that are on the property; that Mr. Robertson stated that not all the plants would need to be planted; that there has to be some element of growing the plants; that whether it is making the plants larger or growing the plants from a seed; that they cannot just pull the plants off the truck and sell them; that there would have to be some agricultural step in the process; that Chairman Wheatley asked what the Applicant is representing that he would be doing; that Mr. Robertson stated the Applicant would like to *"acquire stocks of plants off premise to be kept and maintained, nurtured, treated, and possibly repotted on the premises; that the mature plants would eventually be used in connection with the Applicants lawn care and landscaping business or sold to the public"*; that Chairman Wheatley stated that if it was a wholesale retail activity it would likely be a violation; that the way it was presented to the Commission, it appears that it conforms to the underlying Zoning; that Ms. Stevenson questioned the reasoning for originally prohibiting

retail sales and whether this was because the Commission did not want this to be a spot that people were pulling into and out of all the time; that Mr. Robertson stated there was an access road from Route 9 all the way back to Prettyman Road and one of the conditions imposed was that access road be closed off because the residents behind the property wanted the access road closed; and that there were some neighbor concerns and the concerns went away once the road was closed. The Commission agreed that wholesale retail activities were no, however, permitted.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to clarify that the nursery operations described by the Applicant would be permitted on this property, with the clarification that there is a prohibition on direct wholesaling/retail activity, for Jay Huss Conditional Use 2093. Motion carried 5-0.

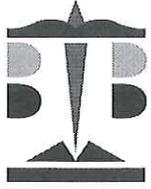
Meeting adjourned at 7:57 p.m.



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT B

Survey



BAIRD
MANDALAS
BROCKSTEDT LLP

EXHIBIT C

County Code

Chapter 115. Zoning

Article XXVIII. Administration and Enforcement

§ 115-216. Changes and amendments.

- A. Initiation of change. The County Council may from time to time amend, supplement or change, by ordinance, the boundaries of the districts or the regulations herein established. Any such amendment may be initiated by resolution of the County Council or by motion of the Planning and Zoning Commission or by petition of any property owner addressed to the County Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Planning and Zoning Commission.
- B. Report from Planning and Zoning Commission. Before taking any action on any proposed amendment, supplement or change, the County Council shall submit the same to the Planning and Zoning Commission for its recommendations and report. Failure of the Commission to report within 45 days after the first meeting of the Planning and Zoning Commission after the proposal has been referred to the Planning and Zoning Commission shall be deemed approval.
- C. Notice and hearings. The Planning and Zoning Commission shall hold a public hearing on any proposed amendment, supplement or change before submitting its report to the County Council and, for this purpose, may request the submission of all pertinent data and information by any person concerned. Before acting on any report by the Planning and Zoning Commission concerning a proposed amendment, supplement or change, the County Council shall hold a public hearing thereon.
- D. Reconsideration, one-year limitation. Whenever a petition requesting an amendment, supplement or change has been denied by the County Council, such petition or one substantially similar shall not be reconsidered sooner than one year after the previous denial; provided, however, that if a petitioner, applicant or appellant fails to appear, or appear by agent, at the scheduled hearing for reasons beyond his control, the applicant may submit a petition for reconsideration as set forth in the County Council's Rules of Procedure. The petition shall be submitted within 15 days and contain facts sufficient to demonstrate the failure to appear was beyond applicant's control. After discussion, if the failure to appear occurred before the Planning and Zoning Commission, the Planning and Zoning Commission shall vote to approve or deny the request for reconsideration or, if the failure to appear occurred before the County Council, the Council shall vote to approve or deny the request for reconsideration; provided, however, that the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission. If a majority of members of the Planning and Zoning Commission or the County Council, as applicable, vote to approve reconsideration of the application, the public hearing will be rescheduled.
[Amended 5-5-2015 by Ord. No. 2396]
- E. Withdrawal. A petition requesting an amendment, supplement or change, by ordinance, of the boundaries of a zoning district of the county's zoning regulations may not be withdrawn within two business days prior to the day of the holding of the public hearing before the County Council;

provided, however, that a petition may be withdrawn thereafter for good cause shown if a majority of the members of the County Council shall vote to allow such withdrawal.

[Added 11-26-1991 by Ord. No. 804]

- F. Failure to appear. If a petitioner, applicant or appellant fails to appear, or appear by agent, or fails to withdraw his application as provided for in Subsection **E** hereof, a petition requesting an amendment, supplement or change substantially similar shall not be reconsidered sooner than one year after the previous failure to appear or failure to withdraw, unless the applicant's failure to appear was beyond his control and the applicant's petition for reconsideration is approved in accordance with Subsection **D** hereof.

[Added 11-26-1991 by Ord. No. 804; amended 5-5-2015 by Ord. No. 2396]

Chapter 115. Zoning

Article XIB. C-2 Medium Commercial District

[Added 2-27-2018 by Ord. No. 2550]

§ 115-83.10. Purpose.

This district supports uses that include retail sales and performance of consumer services. It permits a variety of retail, professional and services businesses. The district shall be primarily located near arterial and collector streets. It accommodates community commercial uses that do not have outside storage or sales.

§ 115-83.11. Permitted uses.

- A. A building or land shall only be used for the following purposes or uses:
- (1) Agricultural-related uses.
 - (a) Wholesale, retail nurseries for sale of products produced on site.
 - (2) Residential uses.
 - (a) Bed-and-breakfast (tourist homes).
 - (b) Hotel, motel or motor lodge.
 - (3) Sales and rental of goods, merchandise and equipment.
 - (a) Convenience store.
 - (b) Convenience store, fuel station (one to six fuel dispensers; no restrictions on number of nozzles).
 - (c) Retail sales establishments 75,000 square feet or less.
 - (d) Pharmacy or related uses 35,000 square feet or less.
 - (e) Restaurants.
 - (f) Brew pubs.
 - (g) Wholesale trade establishments.
 - (4) Office, clerical, research, personal service and similar enterprises not primarily related to goods.
 - (a) Business service establishments.

- (b) Banks.
 - (c) Professional offices.
 - (d) Personal service establishments.
 - (e) Entertainment establishments.
 - (f) Social service establishments.
- (5) Manufacturing, assembling, processing.
- (a) Winery, brewery or distillery under 7,500 square feet.
- (6) Educational, cultural, religious, philanthropic, social, fraternal.
- (a) Recreational facility (indoor).
 - (b) Club indoor, private, such as clubs, lodges, and other annual membership clubs.
 - (c) Places of worship.
- (7) Institutional, residence, care, confinement and medical facilities.
- (a) Family day-care center (one to six children).
 - (b) Large family child-care homes (seven to 12 children).
 - (c) Early care and education and school-age centers (13+ children).
 - (d) Residential child-care facilities and day treatment programs.
 - (e) Child placing agencies.
 - (f) Medical clinics.
 - (g) Independent care facility.
 - (h) Assisted living facility.
 - (i) Extended care facility.
 - (j) Intermediate care facility.
 - (k) Long-term care facility.
 - (l) Fitness/wellness center.
 - (m) Museums, non-profit art galleries.
 - (n) Community centers.
- (8) Storage and parking.
- (a) Self-storage facility.
 - (b) Warehouse.
- (9) Public, semi-public, utilities, emergency.

- (a) Government facilities and services.
 - (b) Parks.
 - (c) Public safety facilities including ambulance, fire, police, rescue and national security.
 - (d) Utility service facilities.
 - (e) Communication towers.
 - (f) Recreational facilities, government.
- (10) Not grouped elsewhere.
- (a) Funeral home.
 - (b) Animal hospital and veterinary clinics.
 - (c) Use of a manufactured-home-type structure for any business, commercial or industrial use that is administratively approved by the Director or his or her designee, and subject to the requirements set forth in Article IV, § 115-20A(16).
[Added 10-22-2019 by Ord. No. 2684]
- B. Where, in the judgment of the Commission, a use is not specifically referenced but is similar to those listed as permitted, it may be permitted by approval of the Commission.
- C. No outside storage or sales are permitted in this district.

§ 115-83.12. Permitted accessory uses.

Permitted accessory uses are as follows:

- A. Residential within structure commercial or business uses.
- B. Garage, public or commercial parking.
- C. Temporary buildings, including manufactured home type structures, the use of which is incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction or upon expiration of a period of two years of the time of erection of the temporary building, whichever is sooner. If construction operations or the initial sale of lots remain actively underway, the Director may grant extensions to this time period.
[Added 10-8-2019 by Ord. No. 2683]

§ 115-83.13. Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment and in accordance with the provisions of Article XXVII of this chapter, and may include:

- A. Exceptions to parking and loading requirements, as follows:
 - (1) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

- (2) Waiver or reduction of the parking and loading requirement in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.
- (3) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.
- (4) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provision of required loading space.

B. Temporary and conditional permits for a period not to exceed five years, such period to be determined by the Board, for the following uses:

[Added 10-22-2019 by Ord. No. 2684]

- (1) Use of a manufactured-home-type structure for any business, commercial or industrial use when not approved administratively by the Director or his or her designee.

§ 115-83.14. Permitted signs.

See Article XXI, §§ 115-159.5 for signs permitted in the C-2 District and other regulations relating to signs.

§ 115-83.15. Height, area and bulk requirements.

A. Minimum lot sizes. Minimum lot sizes shall be as follows:

| Use | Minimum Area** (square feet) | Maximum Area** (square feet) | Width* (feet) | Depth (feet) |
|---------------|---------------------------------|---------------------------------|------------------|-----------------|
| All permitted | 15,000 | — | 75 | 100 |

* NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet.

** NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of 3/4 acre.

B. Minimum yard requirements.

- (1) Minimum yard requirements shall be as follows, except that, in addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

| Use | Depth of Front Yard (feet) | Width of Side Yard (feet) | Depth of Rear Yard (feet) |
|---------------|-------------------------------|------------------------------|------------------------------|
| All permitted | 60 | 5 | 5 |

- (2) There shall be a side yard not less than 20 feet in width on the side of the lot adjoining a residential district, and there shall be a rear yard not less than 30 feet in depth on the rear side of a lot adjoining a residential district.

C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

| Use | Maximum Floor Area (square feet) |
|---------------|-------------------------------------|
| All permitted | 75,000 |

D. Maximum height requirement. Maximum height requirements shall be as follows:

| Use | Feet |
|---------------|------|
| All permitted | 42 |

§ 115-83.16. Reference to additional regulations.

The regulations contained in this article are supplemented or modified by regulations contained in other articles of this chapter, especially the following:

Article I, § 115-4, Definitions and word usage

Article XX, Tables

Article XXI, Signs

Article XXII, Off-Street Parking

Article XXIII, Off-Street Loading

Article XXV, Supplementary Regulations

Article XXVII, Board of Adjustment



BAIRD
MANDALAS
BROCKSTEDT PC

EXHIBIT D

Zoning Map

Figure 4.2-1 Existing Land Use

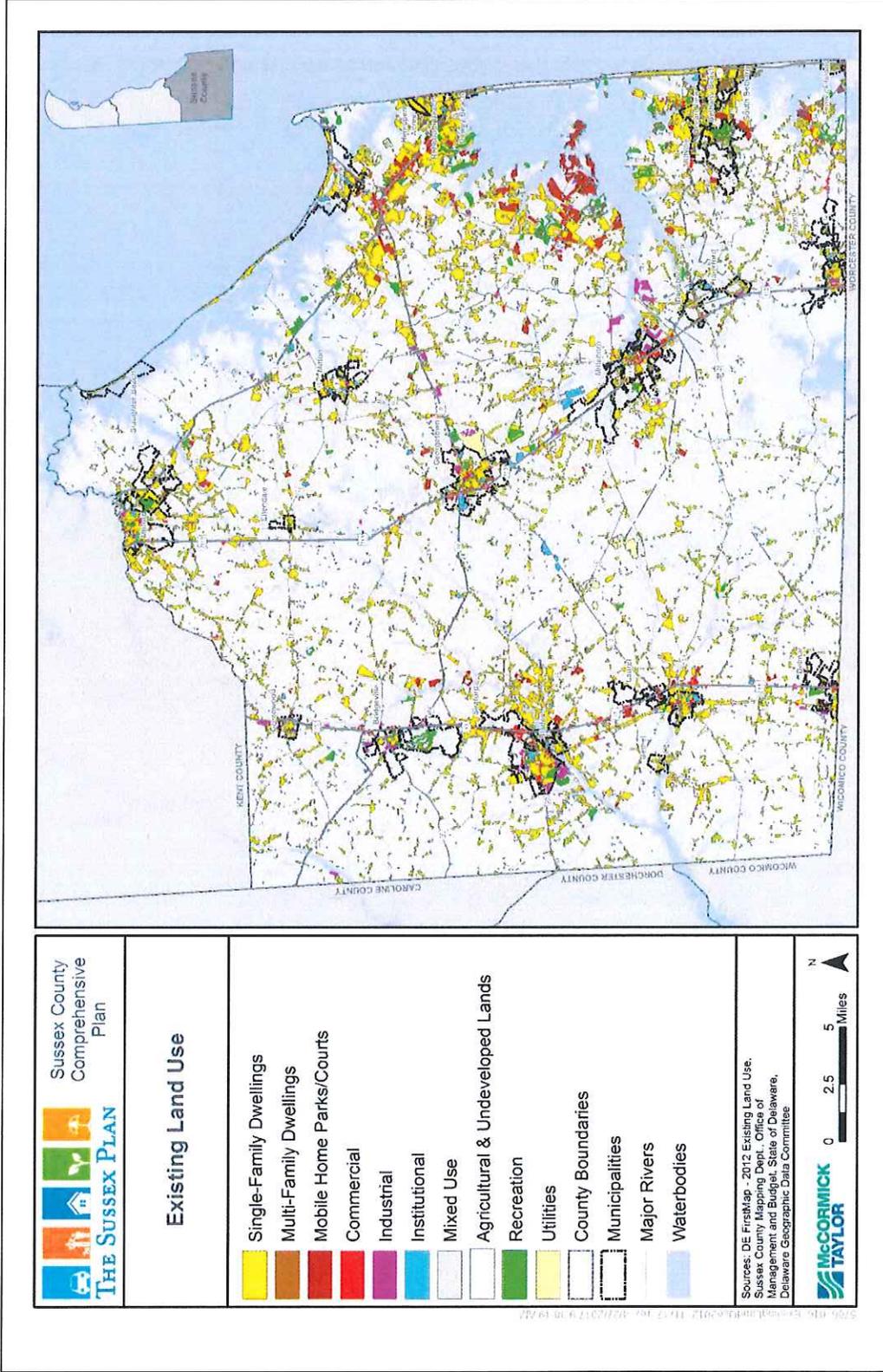
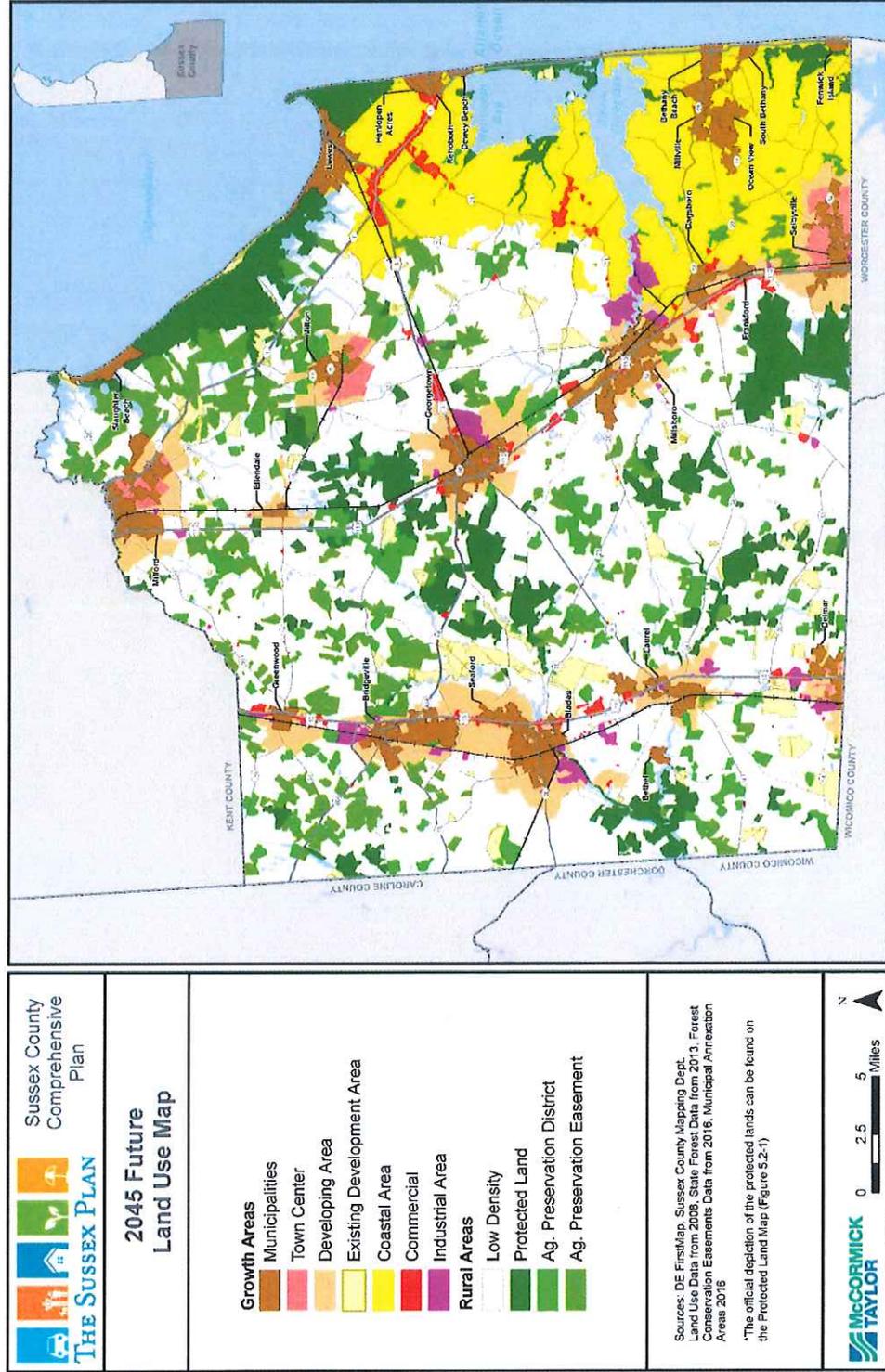




Figure 4.5-1 Sussex County 2045 Future Land Use





Since the comprehensive plan is a guide for the future use of land, the County's official zoning map must be consistent with the uses and intensities of uses provided for in the Future Land Use Plan. Table 4.5-2 is provided below to provide a tool for assisting with determining which zoning districts are applicable to each future land use category.

According to state law, the County must amend its official zoning map to be consistent with the Future Land Use Map within 18 months of the date of adoption of the Comprehensive Plan. Additionally, future rezonings should also generally be consistent with the Future Land Use Plan.

| Table 4.5-2 Zoning Districts Applicable to Future Land Use Categories | |
|---|---|
| FUTURE LAND USE PLAN CATEGORY | APPLICABLE ZONING DISTRICT |
| GROWTH AREAS | |
| Municipalities | N/A - town zoning applies |
| Town Center | Agricultural Residential District (AR-1) Medium Density Residential District (MR) General Residential District (GR) High Density Residential District (HR-1 & HR-2) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) Limited Industrial District (LI-1) Light Industrial District (LI-2) New Zoning Districts |
| Developing Area | Agricultural Residential District (AR-1) Medium Density Residential District (MR) General Residential District (GR) High Density Residential District (HR-1 & HR-2) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) Limited Industrial District (LI-1) Light Industrial District (LI-2) Heavy Industrial District (HI-1) New Zoning Districts |

| Table 4.5-2 Zoning Districts Applicable to Future Land Use Categories | |
|--|---|
| FUTURE LAND USE PLAN CATEGORY | APPLICABLE ZONING DISTRICT |
| Coastal Area | Agricultural Residential District (AR-1) Medium Density Residential District (MR) General Residential District (GR) High Density Residential District (HR-1 & HR-2) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) New Zoning Districts |
| Existing Development Area | Medium Density Residential District (MR) General Residential District (GR) |
| Commercial Area | Agricultural Residential District (AR-1) Business Community District (B-2) Business Research (B-3) Medium Commercial District (C-2) Heavy Commercial District (C-3) Planned Commercial District (C-4) Service/Limited Manufacturing District (C-5) Institutional District (I-1) Marine District (M) New Zoning Districts |
| Industrial Area | Agricultural Residential District (AR-1) Limited Industrial District (LI-1) Light Industrial District (LI-2) Heavy Industrial District (HI-1) Service/Limited Manufacturing District (C-5) New Zoning Districts |
| RURAL AREAS | |
| Low Density | Agricultural Residential District (AR-1) Business Community District (B-2) Medium Commercial District (C-2) Marine District (M) Institutional District (I-1) New Zoning Districts |
| Protected Lands | N/A - permanently protected Federally-owned, State-owned, or other land preserves, and conservation easements |
| Agricultural Preservation Easements and Districts | Agricultural Preservation Easements and Districts through the State's Farmland Preservation Program in Agricultural Residential District (AR-1) |

Notes: Agricultural Residential District (AR-2), Neighborhood Business District (B-1), General Commercial District (C-1), Commercial Residential District (CR-1), Vacation Retirement Residential Park District (VRP), and Urban Business District (UB) are closed districts. These zoning may be located within any of the land use designations.



BAIRD
MANDALAS
BROCKSTEDT LLC

EXHIBIT E

Aerial Maps

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Sussex County

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PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 9th, 2021

Application: CZ 1948 The Grande at Canal Point Maintenance Operations Corp.

Applicant: The Grande at Canal Point Maintenance Operations Corp.
P.O. Box 1418
Rehoboth Beach, DE 19971

Owner: The Grande at Canal Point Maintenance Operations Corp.
P.O. Box 1418
Rehoboth Beach, DE 19971

Site Location: The property is lying on the east side of Hebron Rd., approximately 0.19 mile south of the intersection of Hebron Rd. and Holland Glade Rd. (S.C.R. 271)

Current Zoning: Medium Residential (MR-RPC) Residential Planned Community

Proposed Zoning: Medium Residential (MR-RPC) Residential Planned Community

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Department

Sewer: Sussex County

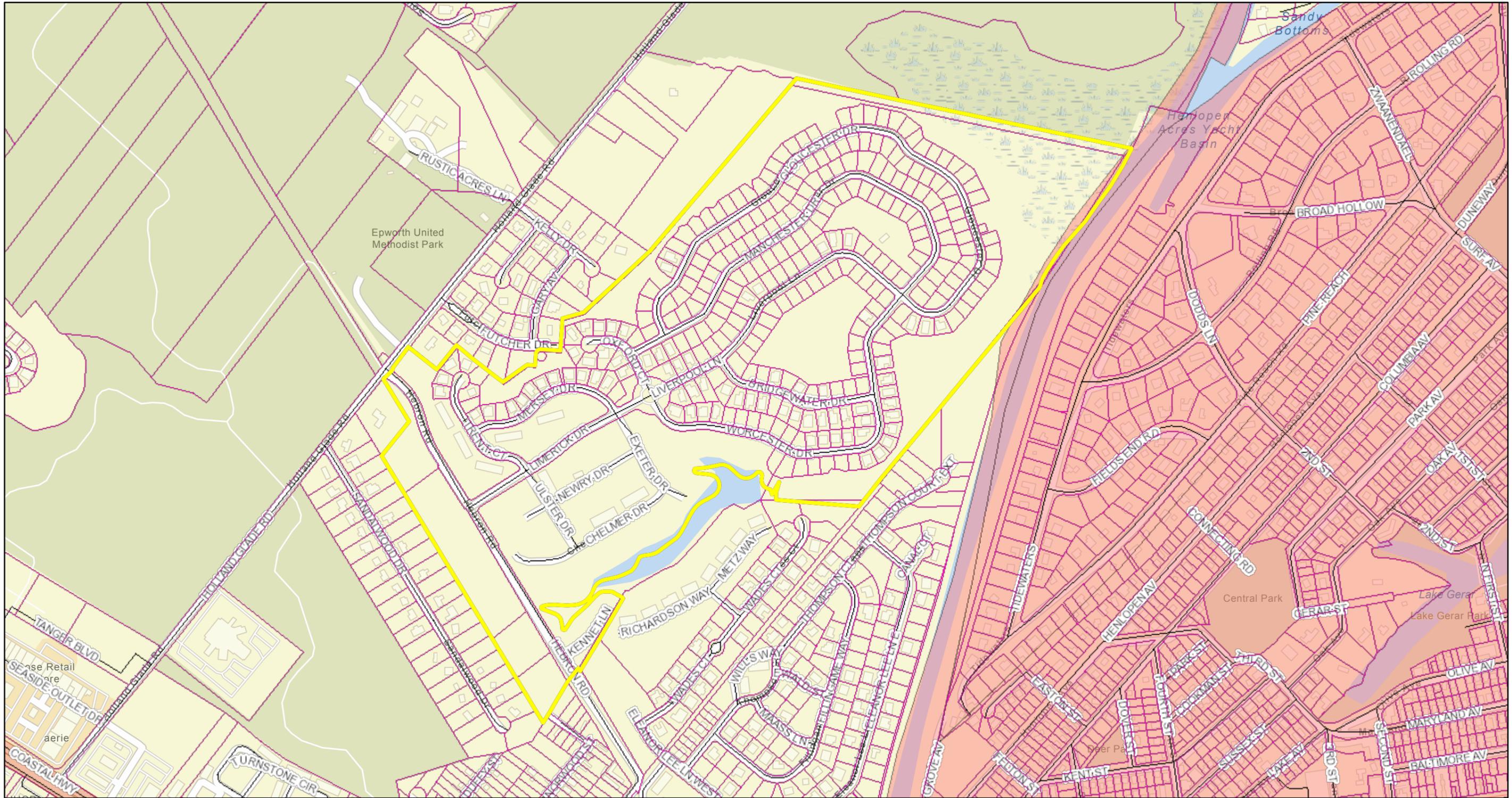
Water: City of Rehoboth

Site Area: 180.60 acres +/-

Tax Map ID.: 334-13.00-334.00. 1448.00 through 1750.00



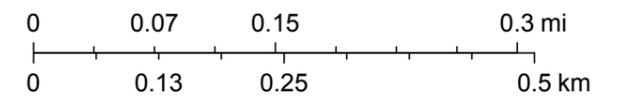
Sussex County



November 17, 2021

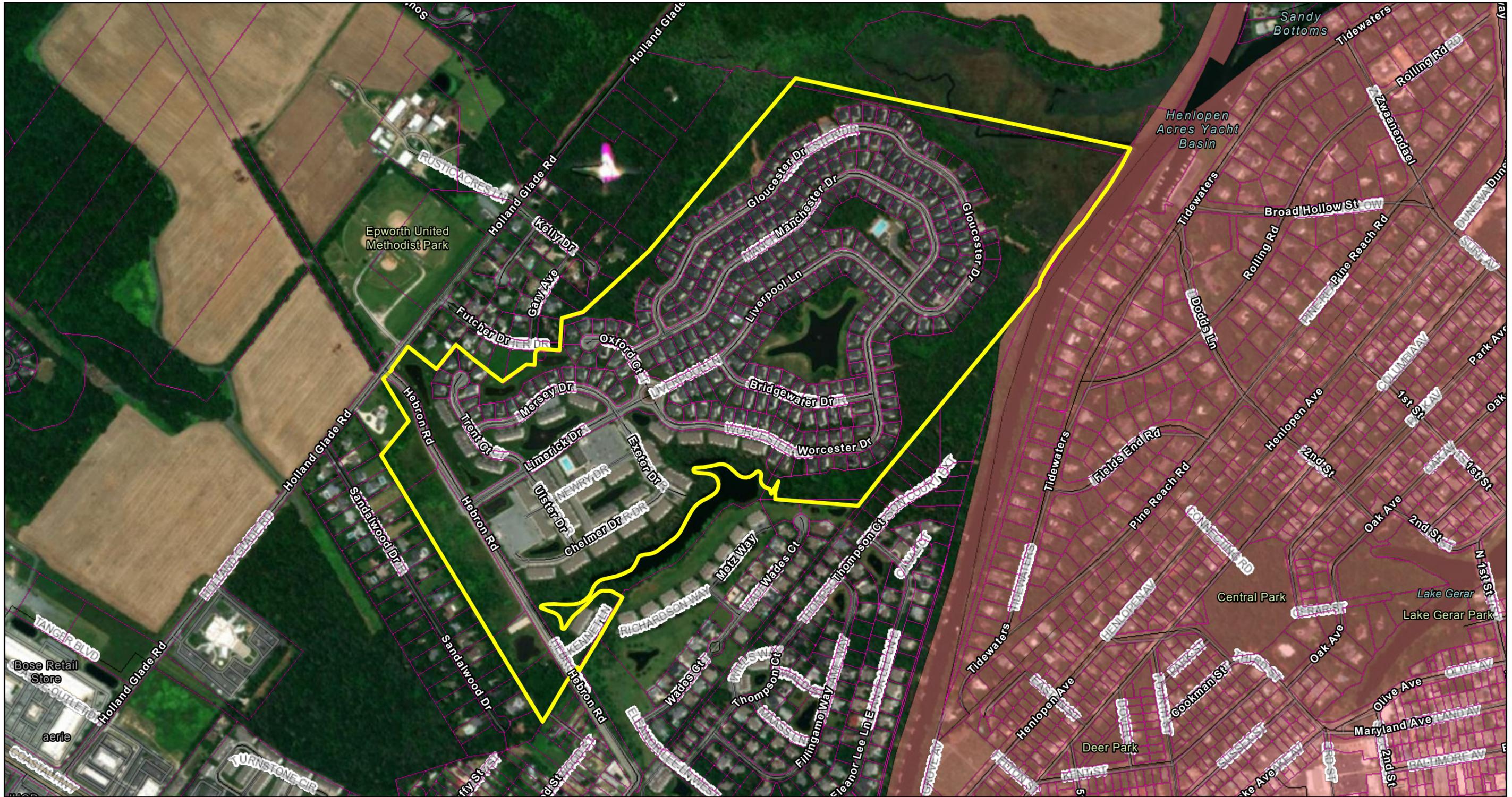
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- Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries
- TID

1:9,028



DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

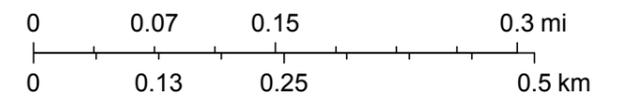
Sussex County



November 17, 2021

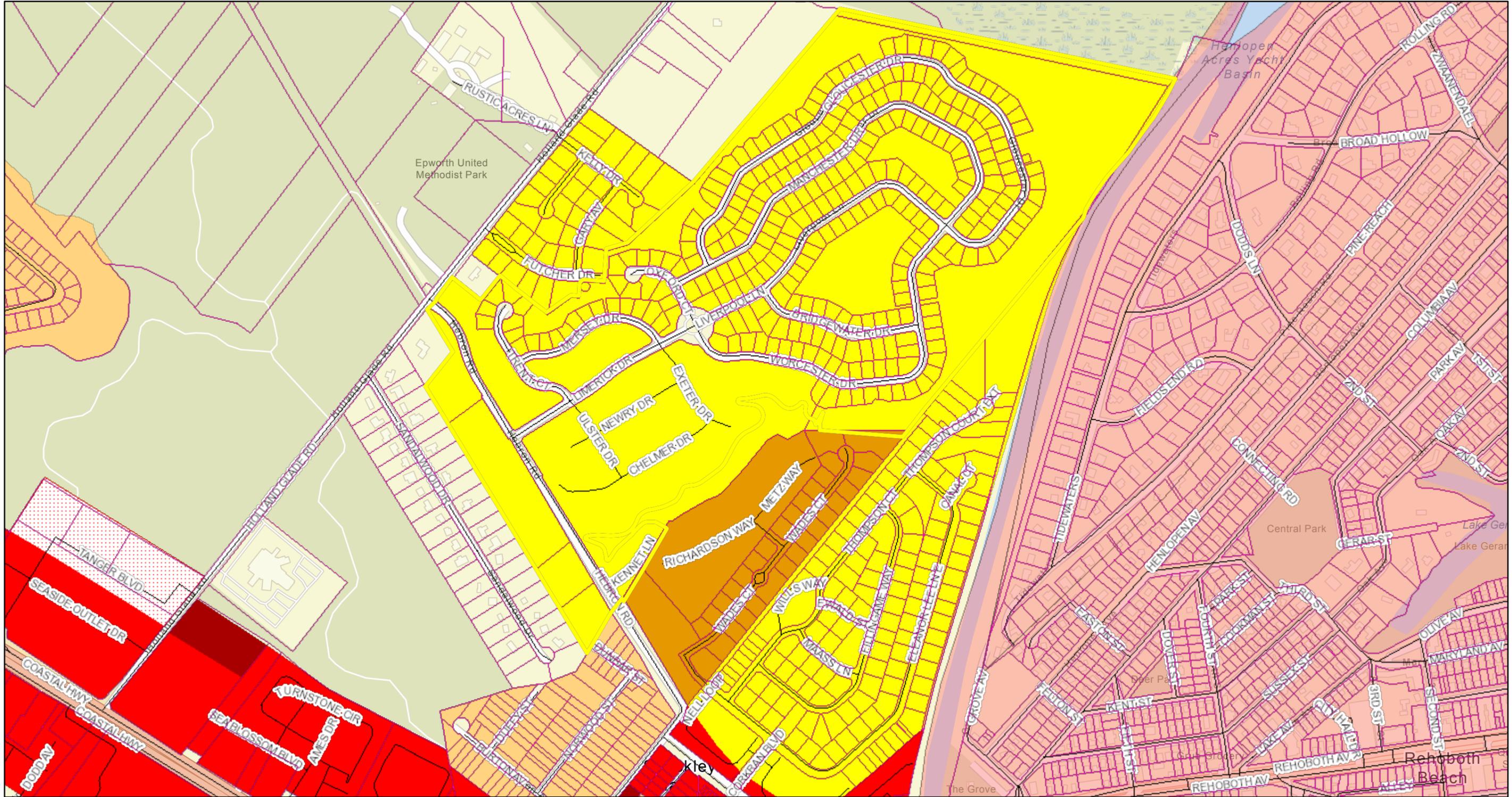
- Override 1
- Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries
- TID

1:9,028



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, ©

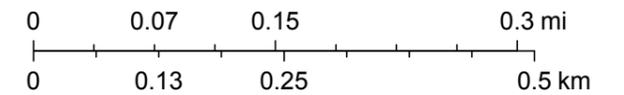
Sussex County



November 17, 2021



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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 3, 2021
RE: Staff Analysis for CZ 1948 The Grande at Canal Point Maintenance Corp.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1948 The Grande at Canal Point Maintenance Corp. to be reviewed during the December 9, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for an Amendment to the Conditions of Approval for the existing Change of Zone (CZ 1538) for Rebay, LLC, for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00, recently amended by CZ 1926 for CP Townhomes, LLC, for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00. Specifically, the applicant is requesting an amendment to Condition "F" which requires specific dimensions for the dock construction. The applicant has suggested that this condition be struck from the Conditions of Approval and all other conditions would remain. The previous Change of Zone application was recommended for approval by the Planning and Zoning Commission at their meeting of Thursday, May 13, 2021 and approved by the Sussex County Council at their meeting of Tuesday June 29, 2021 and the change of zone was adopted through Ordinance No. 2786. Copies of the Meeting Minutes from both of these meetings have been attached to this memo for circulation to members of the Commission and Council.

The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271). The property consists of 180.60 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.



Based on the analysis of the land use, surrounding zoning, and uses, an Amendment to Condition “F” of the previously approved Change of Zones (CZ 1538 and CZ 1926) could be considered as being consistent with the land use, area zoning, and surrounding uses.

THE MINUTES OF THE REGULAR MEETING OF MAY 13, 2021

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday afternoon, May 13, 2021, in Room 540, Carter Partnership Center, Delaware Technical Community College, 21179 College Drive, Georgetown, Delaware. Members of the public also attended this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 4:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Chase Phillips – Planner I, Mr. Elliott Young – Planner I, and Mr. Nick Torrance – Planner I.

Mr. Robertson explained how the meeting would be conducted at this location.

Mr. Whitehouse noted that there were no changes to the Agenda. Motion by Ms. Wingate seconded by Mr. Mears and carried unanimously to approve the Agenda. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the April 8, 2021 Planning and Zoning Commission meeting as revised. Motion carried 5-0

OTHER BUSINESS

Citation Meadows (2018-22)

Final Subdivision Plan

This is a Final Subdivision Plan that proposes the creation of forty-nine (49) single-family lots as a cluster subdivision over 54.40 acres +/- . The property is located on the northern side of Phillips Hill Road (S.C.R. 472), approximately 0.42 of a mile west of Lakeview Road. The Planning and Zoning Commission approved the Preliminary Subdivision Plan for the subdivision at their meeting of Thursday, December 20, 2018. This plan includes 5.9 acres of land to be utilized as a wet pond, 6.1 acres to be used as open space for residents, and other amenities. The plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 133-19.00-30.00. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

The Commission discussed the Final Subdivision Plan.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

The Estuary Phase 5 (2019-06) (F.K.A. Zinszer Property)

Final Subdivision Plan

This is a Final Subdivision Plan for the subdivision of a 26.96 acre +/- parcel of land into thirty-four (34) single-family lots as part of a proposed cluster subdivision to be located on the northeast corner of the Estuary Subdivision, Phase 1D. The Planning and Zoning Commission approved the Preliminary Subdivision Plan for the development at their meeting of Thursday, April 11, 2019. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 134-19.00-105.05. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried to approve the Final Subdivision Plan. Motion carried 4-0 with Ms. Wingate abstaining.

Harvard Business Services

Preliminary Site Plan

This is a Preliminary Site Plan for a 19,635 square foot, 3-story, office building with 155 parking spaces and other site improvements to be located on the west side of Coastal Highway (Route 1). The applicant has requested relief from interconnectivity requirement and the documentation provided has been included in the Commission's paperless packet. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-23.00-54.06 Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan with the addition of a fifth handicapped parking space and the addition of interconnectivity with adjacent commercial property. Motion carried 5-0.

The Vines of Sand Hill (2006-73)

Request to Amend Conditions of Approval

This is a request to amend the Conditions of Approval for the previously approved The Vines of Sand Hill Subdivision. At their meeting of Thursday, August 20, 2008, the Planning and Zoning Commission approved the major subdivision subject to 15 conditions. Specifically, the request is to amend "Condition M" which states, "Within 2 years of the issuance of the first residential building permit, the developer shall construct all of the recreational amenities." The applicant is requesting a change to match the Phasing Plan, which was approved by the Planning and Zoning Commission at their meeting of Thursday December 14, 2017. General Note Number 3 on the Phasing Plan states, "Clubhouse construction is to be completed prior to the issuance of the 136th home certificate of occupancy or earlier. The tennis courts and athletic fields are to be completed prior to the issuance of the 136th home certificate of occupancy or earlier." The applicant has stated that currently, construction of the amenities is proposed to begin the Fall of 2021 and be completed prior to the issuance of the 136th Certificate of Occupancy. Tax Parcel: 135-10.00-63.00. Zoning District: AR-1 (Agricultural Residential Zoning District).

The Commission discussed this request to amend conditions.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried to approve the Request to Amend Conditions of Approval, that the commencement of the amenities should begin within 6 months and completion within 18 months or the issuance of the 136th Building Permit, whichever is the earlier. Motion carried 4-1 with Mr. Mears dissenting.

Lewes Crossing – Phase 8 (2016-4)

Revised Landscape Plan

This is a Revised Landscape plan that proposes modifications to the forested buffer that comprises Perimeter 2 of Phase 8 of the Lewes Crossing Subdivision. The Planning and Zoning Commission approved the Final Subdivision Plan at their meeting of Thursday, September 28, 2018. Specifically, the revised plan proposes 50 trees be planted rather than the 212 that were originally proposed. The reduction of 162 trees is proposed behind Lots 215 through 227 along Perimeter 2 which is 1,408 linear feet. Included in the published packet are two letters that summarize specific environmental reasons for the request. Furthermore, the proposal has received approval from 60% of the residents within Lewes Crossing. The 60% approval equates to 140 of the total 233 homeowners among all phases with 147 homeowners voting in total. No other changes were proposed to the Revised Landscape Plan. Tax Parcel:

334-5.00-222.01. Zoning District: AR-1.

The Commission discussed the revised landscape plan.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer for further consideration the Revised Landscape Plan. Motion carried 5-0.

Lewes Crest Amenities Plan

Amenities Plan

This is a Preliminary Amenities Plan for Lewes Crest which is a multi-family residential development that consists of 31 townhouses. Specifically, this plan proposes a pool, a 160 square foot pool house, landscaping, and interconnectivity to the Lewes-Georgetown Trail. The property is located on the southern side of Nassau Road (S.C.R. 266D) adjacent to Coastal Highway (Rt. 1). The Planning and Zoning Commission approved the Final Site Plan for Lewes Crest at their meeting of Thursday, February 14, 2019. The plan complies with the Sussex County Zoning Code and the requirements of the Combined Highway Corridor Overlay Zone (CHCOZ). Tax Parcel: 334-5.00-87.00. Zoning District: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried to approve the Preliminary Amenities Plan with final approval by staff upon receipt of all agency approvals. Motion carried 4-0. Ms. Wingate abstained.

Lands of Vincent Paul Griscavage & Martha E. Rothenberg

Minor Subdivision off a 24-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 1.25-acre +/- parcel of land for the creation of one (1) lot plus residual lands with Lot 2 having access off a proposed 24-ft ingress/egress access easement. Lot 1 will consist of 20,000 square feet +/- and Lot 2 will consist of 35,412 square feet +/- . The parcel is located on the south side of Clay Road (S.C.R 269). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 334-6.00-46.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Minor Subdivision off a 24' easement. Motion carried 5-0.

Lands of Matthew S. Marvil

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 20.739-acre +/- parcel of land for the creation of two (2) lots plus residual lands with Lots 2B & 3 having access off a two proposed 50-ft ingress/egress access easement. Lot 2B will consist of 7.180 acres +/- and Lot 3 will consist of 6.00 acres +/- . The parcel is located on the southeast side of Camp Road (S.C.R 470). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 232-6.00-42.02 & 42.03. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision off a 50' easement. Motion carried 5-0.

Lands of Janet V. Nichols

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 19.88-acre +/- parcel of land for the creation of one (1) lot plus residual lands with Lot 2 having access off an existing 50-ft ingress/egress access easement. Lot 2 will consist of 4.00 acres +/- . The parcel is located on the south side of Hunters Cove Road (S.C.R 602). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-9.00-25.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision off a 50' easement. Motion carried 5-0.

OLD BUSINESS

2020-15 – The Estuary at Oyster Rock

A standard subdivision to divide 28.80 acres +/- into 21 single-family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the north side of Sandbar Court, which is within the existing Oyster Rock subdivision, and accessed from the northwest side of Oyster Rocks Road approximately 0.61-mile northeast of Coastal Highway (Rt. 1). Tax Parcel: 235-16.00-45.01. Zoning District: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval for Subdivision **2020-15** for **THE ESTUARY AT OYSTER ROCK** based upon the record made during the public hearing and for the following reasons:

1. This is a property that is adjacent to the existing Oyster Rock Subdivision. It will be integrated into that subdivision.
2. This expansion of the Oyster Rock Subdivision will consist of 21 new lots, this results in a density that is significantly less than what is permitted under the AR-1 Zoning District.
3. This expansion area will be interconnected with the interior roads of the Oyster Rock Subdivision.
4. This expansion area will be served by central water and individual on-site septic systems.
5. The stormwater management of this expansion area will be integrated into the existing system within Oyster Rock. It will be designed by engineers and approved by the Sussex Conservation District. It will then be constructed with oversight by the Conservation District. This will improve the drainage and flow of water not only within this property but also in how it impacts adjacent properties.
6. This expansion of the Oyster Rock Subdivision will not adversely affect area roadways, traffic, or nearby property values.
7. The proposed subdivision meets the purpose and standards of the Subdivision Code and the Applicant has addressed the requirements of Section 99.9.C of the Code.
8. The Development complies with the Sussex County Comprehensive Plan as a Low-Density single-family dwelling subdivision.
9. This recommendation is subject to the following conditions:
 - a. There shall be no more than 21 lots within the subdivision.
 - b. This subdivision shall be integrated into the existing Homeowners Association within Oyster Rock. The Association shall be responsible for the maintenance of streets, roads, buffers, stormwater management facilities and, other common areas within Oyster Rock and this new subdivision.

- c. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sediment control facilities.
- d. There shall be forested or landscaped buffer of at least 20 feet in depth along the perimeter of the project. The Final Site Plan shall contain a landscape plan for all of these areas. This buffer area shall utilize the existing vegetation along the southern and eastern boundaries of the site. All silt fencing shall be located along the interior limit of the buffer area, the edge of the buffer nearest the interior development. The Final Site Plan shall identify the limit of disturbance to prevent disturbance of the buffer area.
- e. There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributaries streams, tidal wetlands, perennial rivers and non-tidal streams. As proffered by the Applicant there shall also be a buffer that is at least 25 feet wide from all federal wetlands. There shall not be any disturbance, clear-cutting or stump removal of trees or other vegetation within these buffer areas. No construction activities that disturb the existing grade shall be permitted in the buffer area and the required silt fencing shall be upland of these buffer areas to avoid disturbance.
- f. The development shall comply with all DelDOT entrance and roadway improvement requirements.
- g. The subdivision shall be served by a publicly regulated water system.
- h. Street design shall meet or exceed Sussex County standards.
- i. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- j. Construction, site work and deliveries shall only occur on the site between the hours of 7:30 a.m. through 7:30 p.m., Monday through Friday. No weekend construction activities or deliveries shall occur. A 24-inch X 36-inch notice sign confirming these hours shall be prominently displayed at all entrances to the site during construction.
- k. A revised preliminary site plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- l. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve Subdivision 2020-15 for The Estuary at Oyster Rock, for the reasons and conditions stated in the motion. Motion carried 5 – 0.

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-30.00-58.02 (PORTION OF)

The Commission discussed this ordinance which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of the Ordinance to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcel 235-30.00-58.02 from a Low Density Area to a Commercial Area based on the record made during the public hearing and for the following reasons:

1. The parcel currently has two Area designations. The frontage of the parcel is designated as the Existing Development Area while the rear portion of the property is designated as Low-Density Area according to the Future Land Use Map in the Sussex County Comprehensive Plan. This

application seeks to convert the rear portion of the property from Low-Density to Commercial Area.

2. The parcel has frontage on Route 9 and the rear of the Parcel is bounded by a railroad. This is an appropriate location for a Map Amendment designating the parcel as Commercial Area.
3. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.
4. With the adjacent railroad service, this Map amendment promotes the transportation goals in the Sussex County Comprehensive Plan, which states that one way of reducing truck impacts on area roadways is to shift more freight to rail. This site presents an opportunity to achieve this goal. This is also supported in the Comprehensive Plan by Goal 13.5, Objective 13.5.1 and the Strategies attached to them.
5. No parties appeared at the public hearing to object to this Map Amendment.
6. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of the Ordinance to the Future Land Use Map of the Comprehensive Plan in relation to Parcel 235-30.00-58.02 (portion of) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/Z 1929 – Ryan Lehmann (Manntino Realty Holdings, LLC)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.4653 acres, more or less. The property is lying on the south side of Lewes Georgetown Hwy (Rt. 9) approximately 0.7 mile east of the intersection of Harbeson Rd (Rt. 5) and Lewes Georgetown Hwy (Rt. 9). 911 Address: 26822 Lewes Georgetown Hwy. Tax Parcel: 235-30.00-58.02 (Portion of)

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of CZ#1929 regarding Ryan Lehmann (Manntino Realty Holdings, LLC) for a change in zone from AR-1 to a C-3 based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.
2. The area of this rezoning is part of a larger parcel that already has commercially-zoned frontage. This rezoning will give the entire property a commercial zoning designation. It will also permit the property owner to use the entire property for outdoor storage of materials associated with his existing business on the front section of the property.
3. The entire parcel is adjacent to Route 9 and the rear of the parcel has access to an active railroad. This is an appropriate location for commercial zoning.
4. The parcel is in a section of Route 9 where there are commercial districts and business and commercial uses that have developed. This location is appropriate for an extension of this type of zoning.

5. Upon the approval of the Future Land Use Map Amendment, this site will be in the Commercial Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
7. No parties appeared in opposition to this rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1929 Ryan Lehmann (Manntino Realty Holdings, LLC) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/U 2245 – Jonathan Plump

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for outdoor boat and RV storage to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 4.5 acres, more or less. The property is lying on the northeast side of Milton Ellendale Highway (Rt. 16) approximately 0.55 mile southeast of Holly Tree Road (S.C.R. 226). 911 Address: 20723 and 20715 Milton Ellendale Highway, Ellendale. Tax Parcels: 235-13.00-2.02 & 235-13.00-2.03

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use #2245 for Jonathan Plum for outdoor RV and boat storage based on the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval for an RV and boat storage facility on approximately 4.5 acres.
2. The proposed Conditional Use is located along Route 16, which is an appropriate location for this type of use.
3. There is a need for the use proposed by the Applicant in this area of Sussex County.
4. This use is limited in nature and will not involve any new buildings.
5. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
6. The use as a boat and RV storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
7. No parties appeared in opposition to this Application.
8. This recommendation for approval is subject to the following conditions:
 - a. The use shall be limited to the storage of boats and RVs. No other storage of vehicles or equipment shall occur on the site.
 - b. The facility shall only be accessible from 5:00 am until dusk and the access gate shall be locked to prevent after-hours access to the site.
 - c. The perimeter of the site shall be fenced with a 6-foot-high fence that screens the property from neighboring and adjacent properties and roadways.
 - d. There shall be a landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use and the fence from those adjacent homes. The Final Site Plan for this use shall include a landscaping plan for this buffer area.

- e. No sales or maintenance of boats or RVs shall occur on the site.
- f. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- g. No more than 90 boats and RVs shall be permitted on the site.
- h. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the final site plan.
- i. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
- j. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
- k. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
- l. No junked or unregistered boats, boat trailers or RVs shall be stored on the site.
- m. The final site plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2245 Jonathan Plump for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/Z 1926 – CP Townhomes, LLC (Canal Point RPC)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium-Density Residential District-Residential Planned Community to a MR-RPC Medium-Density Residential District - Residential Planned Community to amend conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities for a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 180.60 acres, more or less. The property is lying on the east side of Hebron Road approximately 0.19 miles south of the intersection of Hebron Road and Holland Glade Road (S.C. R. 271). 911 Address: N/A Tax Parcels: 334-13.00-334.00, 1448.00 through 1750.00

The Commission discussed this application which has been deferred since April 22, 2021.

Mr. Mears moved that the Commission recommend approval of an amendment to Condition #15 of Change of Zone # 1926 and Ordinance #1700 regarding docks within the Canal Pointe RPC based upon the record made during the public hearing and for the following reasons:

1. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.
2. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.
3. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.
4. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the environment than many of these existing docks and the motorized boats that they serve.
5. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.

6. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:
“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.”

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1926 for CP Townhomes, LLC (Canal Point RPC) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

2020-20 – Johnsonville (2006-39)

A revision to an existing and previously approved standard subdivision to divide 42.11 +/- acres into 32 single-family lots lying and being in Indian River Hundred, Sussex County. The proposal is to reduce the existing Forest Conservation Easement from 100-ft in-depth to 50-ft in-depth to the rear of Lots 2-16 for the future accommodation of patios, decks, sheds or, swimming pools. The property is lying on the northeast and southwest sides of Lawson Road (S.C.R. 296). Tax Parcel: 234-21.00-141.00, 234-21.00-394.00 through 234-21.00-425.00. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy Applicant’s Revised Subdivision Plan, a copy of the previous Notice of Decision for the previous subdivision, a copy of TAC comments including DNREC Division of Fish and Wildlife, a copy of the Delaware Hunting Regulations, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and two letters of support.

The Commission found that Mr. Kenneth Christenbury, P.E. was present on behalf of the Applicant, Johnsonville; that this is a 2006 subdivision that is under construction; that the subject of the amendment is that the original developer proffered 100-ft Forest Conservation Easement and the current developer would like to reduce the Forest Conservation Easement to 50-ft; that would allow homeowners to build patios, decks, sheds or swimming pools; that this matter came before the Commission last year and the Commission requested that it have a public hearing; that a question arose about the protection of hunting rights; that the request is only for lots 2 – 4 and 8 – 16 so, there would be no impact on hunting rights of adjoining property owners; and that lots 5 – 7 would retain the 100-ft Forest Conservation Easement.

Ms. Stevenson and Mr. Hopkins both expressed concerns that the hunting rights of adjoining property owners are not adversely affected.

Mr. Christenbury referred to an aerial map and explained that eliminating lost 5 – 7 from the request, will not affect the hunting rights of adjacent property owners.

The Commission found that Jordan Ashburn spoke in support of the request to revise the previously approved subdivision; that the lots tend to be narrow and deep; that it is difficult for placement of the house on the lot due to the septic systems being placed towards the front of the lots; that many of the clients have interest in having the forested buffer reduced; that this would be of benefit to the residents of the neighborhood; and that the 100-ft buffer will remain on lots 5, 6, and 7 so that it will not affect the hunting rights of adjacent property owners.

The Commission found that John Davidson had questions regarding the request to revise the previously approved subdivision; that he is not necessarily in opposition to the request but would like to know if any buffers on the west side of Lawson Road are being affected by this request.

Chairman Wheatley stated that Mr. Christenbury indicated that the request will not affect any buffers on the west side of Lawson Road.

The Commission found that Jessica Romante was present by teleconference; that she and her husband have purchased lot 7; that she is now concerned to learn that lot 7 is not included in the request; that lot 7 will have a tight backyard; that there are 140 ft of trees behind her lot, does that mean she can remove 40 ft of trees.

Mr. Christenbury explained that the lot line between lots 6 and 7 is 163 ft deep; that after the 30 ft. front yard setback, it would mean there is approximately 133 ft of buildable space and offered to email a copy of the site plan.

The Commission found that Jeff DeLeo was present by teleconference; that the buffer behind his lot is 140 ft and should only be 100 ft.

Chairman Wheatley stated that lots 5, 6 and, 7 are not part of this request and there will be no changes to these lots.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

Prior to the recess, the Commission discussed Application 2020-20 Johnsonville (2006-39) Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

2021-17 – Toback Subdivision

A standard subdivision to divide 10.15 acres +/- into 5 single-family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the northwest corner of the intersection of Prettyman Rd. (S.C.R. 254) and Lewes-Georgetown Hwy. (Rt. 9). Tax Parcel: 235-30.00-6.21. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy Applicant's Subdivision Plan, a copy of a letter that has been received from Artesian Resources, a copy of the Applicant's Chapter 99.9.C response, a copy of comments from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that the Application also requires a waiver from the forested buffer requirements.

The Commission found that Mr. Carlton Savage, P.E. was present on behalf of the Applicant, Toback Subdivision, that also present is Mr. Matt Toback; that the request is for a standard subdivision of 4 lots and a residual lot; that the property is located on the corner of Prettyman Road and Route 9, just west of the Royal Farms; that this was originally submitted as a minor subdivision; that the parent parcel had other minor subdivisions in the past so this was this process was required; that the lots will be served by public water and sewer; that each lot will be 0.76 acre in keeping with the area around it; that the total acreage of the parcel is 10.15 acres; that the residual will be 7.12 acres; that there will be a fence on the rear of the property and the section closest to the intersection; that some waivers are requested since this is essentially a minor subdivision in nature; that new roads are not proposed; that a waiver from Article 3 regarding street requirements is requested; that no storm drainage is being proposed because these lots will front on Prettyman Road; that each lot will comply with Sussex Conservation District; that no open space or amenities are being proposed; that a waiver from the landscaped buffer is being requested; that a waiver from Article 4 regarding detailed construction plans is being requested; and that a waiver from master plan grading is requested as they are large lots and the dwellings will be placed in the center of each lot.

Ms. Stevenson asked about the proposed fencing.

Mr. Savage stated that the type of fencing has not been decided but that it would meet all the County standards.

Chairman Wheatley asked if this subdivision would have a Homeowners Association.

Mr. Savage stated there will not be a Homeowners Association.

Chairman Wheatley asked who will maintain the fencing.

Mr. Savage stated that the fencing will be on the residual land at the edge of the four lots and will be maintained by the Developer.

Mr. Robinson asked Staff if all agency comments have been received.

Mr. Whitehouse stated that Staff has received all agency comments.

The Commission found that Mr. Matt Toback was present in support of his Application; that the fencing will be white vinyl privacy fencing which will be on the residual lands close to the proposed lots.

The Commission found that there was no one present in the room or by teleconference who wished to speak in support or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

Prior to the recess, the Commission discussed Application 2021- 17 Toback Subdivision. Ms. Stevenson moved to grant preliminary and final site plan approval for the subdivision **2021-17 for Toback Subdivision** based upon the record made during the public hearing and for the following reasons:

1. This is a small standard subdivision seeking approval of 4 lots, each lot will comply with the requirements of the AR-1 Zoning District.
2. Each lot will have frontage on Prettyman Road and no internal streets will be required.
3. The lots will be served by central water and sewer.
4. The Applicant has addressed the requirements of Section 99-9.C of the Subdivision Code.
5. Given the small size of the subdivision and because it is a strip lot subdivision, a waiver from the buffer and street requirements of the code is appropriate.
6. The subdivision will not adversely affect neighboring properties or roadways.
7. No parties appeared in opposition to the Application.

Motion by Ms. Stevenson to approve Subdivision 2021-17 for Toback Subdivision, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

C/Z 1942 – Bay Developers, LLC (Twin Cedars, LLC)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District, CR-1 Commercial Residential District and GR General Residential District to a GR-RPC General Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 64.32 acres, more or less. The property is lying on the south side of Zion Church Road (Rt. 20), approximately 0.55-mile northwest of Bayard Road. 911 Address: N/A. Tax Parcel: 533-11.00-42.00.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Staff Analysis, a copy of the Applicant's exhibit booklet, a copy of comments received from PLUS review, a copy of the TIS review letter from DelDOT, a copy of the Applicant's TIS, a copy of the DelDOT Service Level Evaluation response, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and one written response which was included in the packet.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Bay Developers, LLC; that also present are Mr. Henry Mast, Principal of Bay Developers, LLC, Mr. Chris Flathers, P.E. – Morris & Ritchie Associates, Inc., Mr. Greg Sauter, P. E. - Geo-Technology Associates, and Mr. Joe Caloggero, P.E. – The Traffic Group, Inc.; that this property was the subject of prior approvals of the Commission and County Council; that this Application is a redesign of a previously approved RPC and commercial project; that in 2010 County Council approved a Change of Zone Applications 1668 and 1669 for this property; that C/Z 1669 was an application seeking to change an area consisting of 5.79 acres of land from General Commercial (C-1) and General Residential (GR) to Commercial Residential (CR-1); that this application was approved; that C/Z 1668 was an application for an Resident Planned Community (RPC) overlay for the balance of the property and was also approved; that the application known as Twin Cedars for 199 residential units consisting of 120 apartments or condos, 45 townhomes and 34 duplexes; that the project was not built and the RPC lapsed; that a new application was filed under C/Z 1909 and was scheduled for a public hearing approximately two months ago; that because the CR-1 portion of the property was not shown on the Zoning Map, the application was terminated which allowed the County to update the Zoning Map and allowed the Applicant to submit a new application listing all the zoning classifications; that the current application is exactly the same as the terminated application C/Z 1909 except that the new application references the 5.79 acres of CR-1 zoning on the property; that the property consists of 64.32 acres situated along Zion Church Road east of the intersection of Zion Church Road and Deer Run Road; that the property is presently unimproved; that there were previously three apartment buildings on this property; that there

are similar residential communities in the area such as Hampton Park, Sweet Bay, Ashton Oaks, Fox Haven and many others; that the property is currently zone C-1, GR and CR-1, that the majority of zoning on Zion Church Road is GR and Medium Residential (MR) with some C-1; that this application seeks to rezone the entire property to GR with an RPC overlay; that the Applicant proposes to leave most of the forested area undisturbed and designate it as open space; that the RPC tool was chosen to maximize the preservation of woods; that the redesign allowed for all the residential areas to be clustered so that each lot would back up to open space or amenities; that this will be a walkable community with centrally located amenities with all homes being within 700 ft. of the amenities; that the entrance to this community would be off Zion Church Road; that 254 units are being proposed comprising of 168 apartments within 7 buildings, 44 townhomes across 11 buildings and 42 single-family lots; that the apartments would be toward the front of the property and the single-family lots toward the rear with the townhomes between both; that the gross density would be 3.95 units per acre and the net density would be 4.31 units per acre; that this density is consistent with the GR district; that the Future Land Use Map shows that this property is located in the Coastal Area which is a growth area; that this property is in the Level 3 area on the State Strategies Map; that the proposed design complements the existing character of the site by keeping the open space and clustering it at the rear of the property; that 28.5 acres will remain forested and undisturbed; that where an existing buffer does not exist, the Developer will install a landscaped buffer to conform with County Code; that sidewalks will be installed on both sides of the street; that amenities proposed include a pool, patio area, a clubhouse, a tot lot area and a walking trail; that the County Code requires 508 parking spaces; that the Applicant is proposing 563 parking spaces; that the Developer will work with the Indian River School District regarding the location of a bus stop; that public utilities are available for the site; that the property is not within a Wellhead Protection Area or within a Groundwater Recharge Area; that there are no known historical sites located on the property; that there are no threatened or endangered species on the property; that the property is not within a flood plain or flood zone; that there will be a Property Owners Association created to manage and govern the common areas within the Community; that DelDOT required a Traffic Impact Study (TIS); that the TIS review letter required that an entrance access from Zion Church Road align with the Bayside Storage entrance across the road; that the entrance be designed and constructed with current DelDOT standards; that the Developer contribute towards a traffic signal at the intersection of Zion Church Road and Bayard Road and Johnson Road; that the Developer include bicycle and pedestrian improvements along the property frontage on Zion Church Road; that a neighboring resident raised concerns that notice be given to future residents regarding the RV park to the rear of this site and that there are hunting and shooting activities in the area; that the same concern was raised in 2010 and the RPC approval contained a requirement that notice be given to all future residents similar to the Agricultural Protection notice; that the Developer has proffered this as part of the proposed conditions and findings; that the purpose of the RPC tool is to encourage large-scale developments as a means of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that the RPC overlay is appropriate for this project but is also superior to the design that was approved in 2010; that this design meets the requirements of the Comprehensive Plan in the Zoning Code; that for all these reasons the Applicant requests recommendation of approval for this Change of Zone application to County Council.

Ms. Wingate asked if the hunting is taking place on the Lost Lands RV Park property.

Mr. Hutt stated that he assumes the hunting takes place during the season when the RV's are not occupied; that the current design retaining the forested area allows for a much greater distance from the RV park to the proposed dwellings on the subject property; and that all future residents will be given notice of hunting activities on adjoining property.

Ms. Wingate asked for clarification regarding the numbers on the TIS.

Mr. Joe Caloggero stated that the TIS was prepared for 44 single-family homes, 44 townhomes and, 168 apartments and that's what the numbers are based on.

Ms. Wingate commented that she will expect to see the landscape buffer/berm along Route 20 when the site plan is submitted.

Ms. Stevenson asked for confirmation that the berm is being proposed.

Mr. Hutt stated that Mr. Flathers will address the berm but noted that the nearest residence is a good distance from Route 20 because of the stormwater management systems to the front of the property.

Mr. Chris Flathers stated that the intent is to utilize berms when possible for screening, but it is not always possible with drainage issues and that on the west side of the property the nearest residence is 44 ft. from the property line.

Ms. Stevenson asked the Applicant to address the soils on the property especially, subaqueous soils.

Mr. Greg Sauter stated that the soils at this site are suitable for the proposed development; that hydric soils would not prevent building; that the existence of hydric soils would not prevent the building of an environmentally sensitive development; that the stormwater management facilities proposed for this site will improve the overall stormwater run-off in the area; that subaqueous soils are related to the wetland aspect and that this property has been farmed for many years, therefore, those soils would not be subaqueous; and that there are no wetlands on this site.

Ms. Stevenson commented that the road within the community should have a sign stating that it is for connectivity to future developments.

Mr. Hutt stated that a sign could be placed without the expense of extending a road for something that may never happen.

Ms. Stevenson asked for an explanation of the full-movement access traffic entrance.

Mr. Caloggero stated that it is a full movement of left, right and, straight through so the access to this site will be designed to cross the street from Bayside Storage.

The Commission found that there was no one present in the room or by teleconference who wished to speak in support or in opposition to the Application.

Mr. Whitehouse confirmed that the County Council hearing date for this Application will be June 29, 2021, at 1:30 pm in County Council Chambers and not at Del Tech.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

Prior to the recess, the Commission discussed Application C/Z 1942 – Bay Developers, LLC (Twin Cedars, LLC). Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

Recess 6:55 P.M. – 7:20 P.M.

C/Z 1922 – Baywood, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a B-1 (Neighborhood Business District), C-1 (General Commercial District) and, CR-1 (Commercial Residential District) to a HR-RPC High-Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 54.38 acres, more or less. The property is lying on the north side and south side of Long Neck Road, approximately 0.47 miles east of the intersection of Long Neck Road and John J. Williams Highway (Route 24). 911 Address: 32147 Long Neck Road, Millsboro. Tax Parcels: 234-23.00-270.00, 273.01, 273.02, 273.03, & 273.05.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Staff Analysis, a copy of the Applicant's exhibit booklet, a copy of the Applicant's conceptual site plan, a copy of comments received from PLUS comments and, a copy of the Applicant's response to the PLUS comments, a copy of a letter received from the Indian River Volunteer Fire Company, two copies of TIS submissions in relation to the Application sites, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and nine comments which have been distributed to members of the Commission.

The Commission found that Mr. James Fuqua, Esq. was present on behalf of the Applicant, Baywood, LLC; that also present are Robert Tunnell, Jr. and Robert Tunnell, III on behalf of the Applicant, Jason Palkewicz - Solutions IPER, and Betty Tustin – The Traffic Group; that this is an application to rezone a 54.38 acre parcel of land on both the north and south sides of Long Neck Road to High Density Residential District (HR) with a Residential Planned Community (RPC) overlay; that the proposed use is a 514 unit multi-family rental community; that the parcel on the north side of Long Neck Road contains 38.17 acres and is approximately 1,000 ft. east of the Route 24 intersection; that along Long Neck Road between Route 24 and the north parcel, the uses are a gas station, food mart, funeral home and a church; that the north parcel also borders the Greens at Long Neck and the Baywood Greens and Golf Course; that the parcel on the south side of Long Neck Road contains 16.21 acres and is approximately 2,000 ft. east of Route 24; that along Long Neck Road between Route 24 and the south parcel, the uses are a bank, a medical office building, a Beebe health care facility and Bayshore which is a 146 unit multi-family community located on 17 acres of land; that the south parcel borders School Lane to the east and the rear borders the Long Neck Elementary School; that the proposed development is to be called Baywood Gardens; that 354 units would be on the north side in nine multi-family buildings and 160 units would be on the south side in four buildings; that the HR zoning would permit a maximum density of 12 units per acre and the 514 units proposed would be a density of 9.45 units per acre; that no

commercial uses or buildings are being proposed; that the Applicant, Baywood, LLC is owned by the Tunnel family; that the Tunnel family has a history of over 60 years in the Long Neck area including the Baywood development adjacent to the north and the various Pot Nets communities; that tonight's application addresses a much needed housing type and that is the multi-family rental housing.; that the north parcel is currently zoned Neighborhood Business (B-1) and General Commercial (C-1); that there was a prior approved development plan for the northern portion of the subject property which consisted of a Conditional Use for the B-1 land and uses permitted by right for the C-1 land; that in 2010 the County Council approved C/U 1797 for 143 multi-family units on B-1 portion of the site and on the C-1 portion which already permits multi-family, the mixed use proposal was for a total of 354 multi-family units and commercial space of 48,000 sf.; that planned development did not move forward; that this Application is for the same number of multi-family units but eliminates the commercial space; that the south portion of the property is zoned CR-1; that the woods on the property were removed by the previous owner as part of the contract of sale; that the property is located in Investment Levels 1 and 2 according to the Strategies for State Policies and Spending; that the State Strategies is not a land use document but is a guide to where the State plans to direct investments; that Investment Levels 1 and 2 reflect areas that are already developed; that the Comprehensive Plan projects that by the year 2035 there will be an additional 60,000 permanent and seasonal residents in Sussex County; that this growth will correlate into a need for various types of housing; that this project will find a more affordable alternative to home ownership as compared to single-family ownership; that a rental development will have lower costs to the renter, shorter time commitments, no large down-payment, no annual tax bills and no maintenance and landscaping required; that Baywood Gardens will provide more affordable housing to workers in eastern Sussex County; that according to the Comprehensive Plan, Baywood Gardens is located in the Commercial Area and the Coastal Area which are both considered growth areas; that the Applicant has requested that the Future Land Use Map be amended to designate all of the Applicant's land to the Coastal area rather than in two growth areas; that the Comprehensive Plan states that medium and higher density (4-12 units per acre) can be appropriate in certain locations: that Medium and higher density could be supported in areas: where there is central water and sewer; near sufficient commercial uses and employment centers; where it is in keeping with the character of the area; where it is along a main road or at/or near a major intersection; where there is adequate Level of Service; or where other considerations exist that are relevant to the requested project and density; that this project is appropriate as it is served by central water and sewer, it is near commercial uses and employment centers, it is in keeping with the character of the area, it is along a main road, and there is adequate level of service and the Applicant will be making improvements to the roadways; that the purpose of the HR-1 district is to permit variety in housing types and provide for residential densities appropriate for areas which are or will be served by public sanitary sewer and water systems and which are well-located with respect to major thoroughfares, shopping facilities and centers of employment; that this describes this site; that the purpose of the RPC overlay is to encourage large-scale developments as a means of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that Baywood Gardens is the type of development envisioned in the purpose clause for the HR-RPC; that the proposed development is in accordance with State Investment Level designations, the Sussex County Comprehensive Plan and the purpose of the HR-RPC under the Zoning Ordinance; that the stormwater management facilities will be designed and constructed in accordance with DNREC's sediment and stormwater regulations; that there are no State regulated or tidal wetlands on the property; that the property is designated as being in flood zone X and outside of the 100 year flood plain; that the

State Historic Preservation Office advised that there are no known archeological or national registered listed or registered features on the site; that the site is located in the Indian River School District and the Indian River Volunteer Fire Company; that DelDOT did require a Traffic Impact Study (TIS) for the proposed development; that there were two TIS completed, one for the north parcel and one for the south parcel and that the property is not in the Henlopen Transportation Improvement District (TID); that the Applicant will be required to provide a 40 ft. right-of-way from center line on both sides of Long Neck Road along the site frontage and a 30-ft right-of-way from center line on School Lane along the site frontage; that the Applicant will also dedicate a permanent 15 ft. easement along the site frontage for a shared path which will be constructed by the developer; that the Applicant will also be responsible for certain roadway improvements and traffic signal improvements in the area; that the entrance to the northern portion of this site shall be on Long Neck Road directly across from Bayshore Drive; that there will be a secondary entrance from Greens Way; that the entrance to the southern portion of the site shall be on Long Neck Road directly across from Greens Way; that there will be a secondary entrance from School Lane; that the traffic improvements will include bus stops on Long Neck Road; that the north parcel will contain 354 units located in nine four-story buildings, eight buildings would contain 40 units each and the ninth would have 34 units; that parking would be adjacent to the buildings and a large parking area next to the recreational complex; that the recreational facilities will be on the north parcel and will include a clubhouse, outdoor pavilion, indoor and outdoor pools, playground, pickleball courts, Bocce courts, a practice putting green, a community garden and passive open space; that a central mailbox facility will be located near the recreational facility; that 602 parking spaces are required per County Code and 791 spaces are being provided for the north parcel; that there will be an interior sidewalk system connecting to the shared use path on both the northern and southern portions of the development; that there will be non-intrusive lighting throughout the north and south portions of the development; that the location of the school bus stop will be coordinated with the school district for both sections of the development; that there will be buffers and privacy fencing between the adjacent development; that the south parcel will contain 160 units located in four four-story buildings containing 40 units each; that there will be a 20-ft landscape buffer between this development and adjacent properties; that 287 parking spaces are required per County Code and 320 parking spaces are being provided; that the south parcel will have two open space gathering areas with two tot-lot playgrounds; that there is a signalized crosswalk on Long Neck Road at the intersection with Banks Road and School Lane to allow for pedestrians to cross safely between the north and south side of the property; that there will be 210 two-bedroom units and 304 three-bedroom units; that the Baywood Garden Community would be operated by the Tunnell Companies; that the gross density would be 9.45 units per acre and the net RPC density would be 9.94 units per acre with approximately 27.5 acres of open space which is 51% of the development; that the Applicant has submitted proposed findings and conditions; that the Applicant proposes that the recreational complex be completed prior to the issuance of a Certificate of Occupancy for the 161st unit; that the Applicant proposes that if the RPC is voided for any reason that the zoning revert back to the zoning classification on the date of approval; that this condition is offered by the Applicant with full knowledge of its intent and purpose with the understanding that the Applicant voluntarily offers this condition with the knowledge that they will be bound to it; and that the Applicant respectfully requests recommendation of approval subject to conditions.

Mr. Mears expressed concerns about the safety of pedestrians, especially children crossing Long Neck Road even with the signalized crossing.

Ms. Wingate asked if a property manager will be on site.

Mr. Fuqua stated that there will be a management office on-site and there will be a telephone number for 24-hour access for emergencies.

Ms. Stevenson asked about the height of the four-story buildings.

Mr. Fuqua stated that the buildings will be 52 ft. tall.

Ms. Stevenson asked if there are other buildings of similar height in the area.

Mr. Robert Tunnell, III stated that the Baywood Clubhouse is 65.5 ft.; that the water tower on Route 24 is approximately 60 ft. and the Baywood sales center is 54 ft. and there were 3 height variances for these buildings.

Mr. Robertson commented that the County cannot unilaterally revert something to a different zoning category because of the Code and due process of public hearings but that it could be stated as if the RPC is voided, the County will schedule a public hearing to consider the rezoning of the property.

The Commission found that Terry Phelan spoke in support of the Application; that there seasonal rentals but few permanent rental units available; that it would be good for local workers and young families; that she also has concerns about the crossing issue between the parcels and that golf carts should not be allowed.

The Commission found that Jim Carlson spoke in opposition of the Application; that the infrastructure cannot accommodate all the development in this area and that the roads are not adequate for the traffic in the area.

The Commission found that Jane Rakowski spoke in opposition of the Application; that the traffic is already an issue and adding more units will exacerbate the problem.

The Commission found that Rick Mortimer stated that he had questions for the Applicant; that he asked if the existing Baywood residents would bear any expense to enjoy the proposed amenities.

Mr. Tunnel stated that the existing residents would be able to use the proposed Community Center and that the cost would be spread across all the lots and that there would not be a membership fee.

The Commission found that Eul Lee spoke by teleconference and stated that she had questions regarding the Application; was there a PLUS review for this Application; are four-story apartment buildings considered low-rise; and what are the rental rates. Ms. Lee also expressed concerns about the crosswalk to get to the amenities on the northern portion of the property.

Chairman Wheatley stated that the PLUS review was part of the packet posted on the website.

Mr. Robertson stated that low-rise is not defined in the County Code.

Chairman Wheatley added that there are height limitations and that is what governs the height of any building in a zoning district.

Chairman Wheatley stated that the question about rental rates is beyond the scope of the Commission; that the Commission is about Land Use.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application C/Z 1922 – Baywood, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Mr. Whitehouse confirmed that the County Council hearing date for this Application will be June 29, 2021, at 1:30 pm in County Council Chambers and not at Del Tech.

ADDITIONAL BUSINESS

Commission discussion on potential site visits

Mr. Whitehouse stated that this item was placed on the agenda to garner if the Commission members would have an interest in visiting sites both developed and undeveloped.

Chairman Wheatley stated that this was done in the past.

Commission members discussed this, and all members agreed that it would be a good idea to put site visits on the calendar for the fall.

Commission discussion on paperless packets

Mr. Whitehouse stated that there are different ways to access the paperless packet on the County Website and demonstrated how to get to the packet through the meeting date on the Website.

Mr. Robertson thanked the staff from Del Tech and Sussex County for accommodating the meetings over the past months. The Commission members also gave their thanks.

Meeting adjourned at 8:40 p.m.

**Planning and Zoning Commission meetings can be monitored on the internet at
www.sussexcountyde.gov.**

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 29, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 29, 2021, at 10:00 a.m., in Council Chambers, with the following present:

| | |
|------------------------------|-----------------------------|
| Michael H. Vincent | President |
| John L. Rieley | Vice President |
| Cynthia C. Green | Councilwoman |
| Douglas B. Hudson | Councilman |
| Mark G. Schaeffer | Councilman |
| Todd F. Lawson | County Administrator |
| Gina A. Jennings | Finance Director |
| J. Everett Moore, Jr. | County Attorney |

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 267 21
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of June 15 and 22, 2021 were approved by consent.

**Public
Comments**

Mr. Moore noted that correspondence was received from the Georgetown Public Library and The Home of the Brave Foundation in appreciation of grant funding.

Public comments were heard and the following spoke:

William Kinnick, President of the Delaware Manufactured Housing Association, reported on raw sewage in 13 manufactured home communities in the County and he asked that the County hold placement permits for these communities. Mr. Kinnick also referenced the drinking water issue in these communities.

Mr. Vincent asked that the County hold placement permits for these communities until the problems are resolved.

Report

Mr. Lawson read the following information in his Administrator's Report:

**Adminis-
trator's
Report**

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Outer Banks North (Construction Record) received Substantial Completion effective June 14th.

2. Holiday and Council Meeting Schedule

County offices will be closed on Monday, July 5th, for the Independence Day holiday. In addition, Council will not meet on July 6th. The next regularly scheduled Council meeting will be held on Tuesday, July 13th.

3. Joyce Watkinson

It is with sadness that we note the passing of County pensioner Joyce Watkinson on Thursday, June 24th. Mrs. Watkinson began her career with Sussex County in May 1984 and retired from the Planning & Zoning Department in January 2011. We would like to extend our condolences to the Watkinson family.

[Attachments to the Administrator's Report are not attached to the minutes.]

**Excite
Sussex
Loan/
Miller
Metal
Project**

Bill Pfaff, Economic Development Director, discussed the ExciteSussex Loan Program including the framework for the Fund and he presented a recommendation to offer a loan for the Miller Metal project in Bridgeville. The Miller Metal project is an approximate \$6 million project and the loan request to the County is for \$5 million. Per the framework of the Loan Program, the loan limit is \$1 million and for this reason, Mr. Pfaff has packaged out the loan. He reported that the Grow Delaware Fund will loan the project \$2.5 million. He recommended that the County fund \$2.5 million which is beyond the established loan amount for the ExciteSussex Loan Program;. The County's contribution into the Loan Fund is \$625,000 of the \$2.5 million; the difference of \$1,875,000 would be funded by monies granted by Discover Bank to the County for the Fund. Mr. Pfaff presented the public benefits of the Miller Metal project, including the number of employees which will total 141 (at a minimum) in Bridgeville.

**M 268 21
Approve
Loan
Package/
Excite
Sussex
Loan/
Miller
Metal**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that the Sussex County Council approves the loan package under the ExciteSussex Loan Fund for Miller Metal, Bridgeville, in an amount not to exceed \$2.5 million.

Motion Adopted: 5 Yeas.

**M 268 21
(continued)**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Compre-
hensive
Land Use
Plan
Annual
Report**

Jamie Whitehouse, Planning and Zoning Director, presented the annual update to the Office of State Planning and Coordination on the Comprehensive Plan. The Comprehensive Plan was completed by the County in 2018 and certified by the Governor in March 2019; this is the second annual report on year two progress (for the July 1, 2020 through June 30, 2021 review period). He noted that the County has undertaken a number of initiatives to implement the strategies within the Comprehensive Plan, the most significant of which is the Henlopen Transportation Improvement District (TID) and the Funding Accelerating Safety in Transportation (FAST) Track Program. (The full report was included in the Council packets for this meeting.)

**M 269 21
Approve
Compre-
hensive
Land Use
Plan
Annual
Report**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that the Sussex County Council approves the (*Annual Comprehensive Plan*) Report to the Governor's Advisory Council on Planning for the 2020 to 2021 period.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Old
Business/
CZ 1926**

Under Old Business, the Council considered Change of Zone No. 1926 filed on behalf of CP Townhomes, LLC (Canal Pointe Residential Planned Community).

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2021 at which time action was deferred. On May 13, 2021, the Commission recommended approval contingent on the following: Condition No. 15 of Change of Zone No. 1538 (Ordinance No. 1700) should be amended to state as follows:

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.**

(continued) **The County Council held a Public Hearing on this application on June 15, 2021 at which time action was deferred.**

**M 270 21
Amend
Condition
15/
CZ 1926** **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition No. 15 for Change of Zone No. 1538 (Ordinance No. 1700) by deleting it in its entirety and inserting the following amended Condition No. 15, as follows:**

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC's Grande at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents, subject to the following requirements:**
 - a. This dock shall only be utilized for kayaks, canoes and paddleboards or similar non-motorized vessels.**
 - b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked or otherwise permitted along the dock or landward of it within the park property.**
 - c. No storage of kayaks, paddleboards, boats or any other marine equipment shall be permitted along the dock or landward of it within the park property.**
 - d. No storage facilities or other structures or improvements shall be located along the dock or landward of it within the park property.**
 - e. No bathrooms, running water, electricity/lighting or parking shall be located along the dock or landward of it within the park property.**
 - f. The permitted dock shall be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than 18 feet from the mean highwater mark and which shall be no larger than the following combined specifications:**
 - i. A ramp measuring 6 feet in width by 8 feet in length which runs to and connects with a fixed pier.**
 - ii. A fixed pier measuring 6 feet in width by 16 feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal.**
 - iii. A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring 8 feet in length into the canal with two parallel sides perpendicular to the fixed pier, each measuring 12 feet in length.**
 - g. The permitted dock shall be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.**
 - h. No other piers, docks, boat ramps or other water-related facilities shall be permitted.**
 - i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its points of access from the RPC.**

**M 270 21
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 271 21
Adopt
Ordinance
No. 2786/
CZ 1926**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2786 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CZ 1538 (ORDINANCE 1700) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1926) filed on behalf of CP Townhomes, LLC (Canal Pointe Residential Planned Community), with the following amended Condition No. 15 as follows:

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC’s Grande at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents, subject to the following requirements:**
 - a. This dock shall only be utilized for kayaks, canoes and paddleboards or similar non-motorized vessels.**
 - b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked or otherwise permitted along the dock or landward of it within the park property.**
 - c. No storage of kayaks, paddleboards, boats or any other marine equipment shall be permitted along the dock or landward of it within the park property.**
 - d. No storage facilities or other structures or improvements shall be located along the dock or landward of it within the park property.**
 - e. No bathrooms, running water, electricity/lighting or parking shall be located along the dock or landward of it within the park property.**
 - f. The permitted dock shall be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than 18 feet from the mean highwater mark and which shall be no larger than the following combined specifications:**
 - i. A ramp measuring 6 feet in width by 8 feet in length which runs to and connects with a fixed pier.**

**M 271 21
Adopt
Ordinance
No. 2786/
CZ 1926
(continued)**

- ii. A fixed pier measuring 6 feet in width by 16 feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal.
- iii. A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring 8 feet in length into the canal with two parallel sides perpendicular to the fixed pier, each measuring 12 feet in length.
- g. The permitted dock shall be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.
- h. No other piers, docks, boat ramps or other water-related facilities shall be permitted.
- i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its points of access from the RPC.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

Mrs. Jennings presented grant requests for the Council's consideration.

**M 272 21
Council-
manic
Grant**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to give \$12,913 (\$8,913 from Mr. Schaeffer's Councilmanic Grant Account, \$1,500 from Mrs. Green's Councilmanic Grant Account and \$2,500 from Mr. Rieley's Councilmanic Grant Account) to the Town of Ellendale for park playground renovations.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 273 21
Council-
manic
Grant**

*** A Motion was made by Mrs. Green, seconded by Mr. Rieley, to give \$5,000 ~~\$2,500~~ from Mrs. Green's Councilmanic Grant Account to Little League Baseball, Inc. for Woodbridge Little League field upgrades.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
7-Eleven
Bridgeville**

A Public Hearing was held on the Proposed 7-Eleven Bridgeville Expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area). John Ashman, Director of Utility Planning & Design, reported that

**Extension
Public
Hearing/
7-Eleven
Bridgeville
Extension
(continued)**

the proposed expansion will include several parcels in the Bridgeville Expansion Area. The Engineering Department received a request from Becker Morgan Group on behalf of their client, PTV 1081, LLC, the owners/developers of a project known as 7-Eleven Bridgeville for Parcel Nos. 131-19.00-7.00 and 8.02. The project is for a proposed convenience store and service station. The project will be responsible for system connection charges in place at the time of connection.

There were no public comments.

The Public Hearing and public record were closed.

**M 274 21
Adopt
R 012 21**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 012 21 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCELS 131-19-7.00 & 8.02 ON THE WEST SIDE OF SUSSEX HIGHWAY; THE PARCELS ARE LOCATED IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR SUSSEX COUNTY, DELAWARE" (7-ELEVEN BRIDGEVILLE).

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Peninsula
Square
Extension**

A Public Hearing was held on the Proposed Peninsula Square Expansion of the Sussex County Unified Sanitary Sewer District. John Ashman, Director of Utility Planning & Design, reported that the Engineering Department received a request from Duffield Associates, LLC on behalf of their client, Four Diamonds Development & Consulting, LLC, the owners/developers of a project known as Peninsula Square on Parcel No. 234-23.00-115.00. The project is for a proposed hotel, gas station, retail and office space. The project will be responsible for system connection charges in place at the time of connection.

There were no public comments.

The Public Hearing and public record were closed.

**M 275 21
Adopt
R 013 21**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 013 21 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE PARCEL 234-23.00-115.00 ON THE NORTH SIDE OF JOHN J. WILLIAMS HIGHWAY (ROUTE 24); THE PARCEL IS LOCATED IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE

M 275 21 **RECORDER OF DEEDS IN AND FOR SUSSEX COUNTY,**
(continued) **DELAWARE” (PENINSULA SQUARE).**

Motion Adopted: 4 Yeas, 1 Abstention.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Abstained;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

**Public
Hearing/
Cardinal
Grove
Extension**

A Public Hearing was held on the Proposed Cardinal Grove Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). John Ashman, Director of Utility Planning and Design, reported that the Engineering Department received a request from Solutions IPEM on behalf of their client, 18898 Beaver Dam Road, LLC, the owners/developers of a project known as Cardinal Grove on Parcel No. 234-2.00-1.10. The project is proposed for 98 units. The expansion would also include Parcel 234-2.00-25.01 as requested by the parcel owner, Linda D. Beebe. The project will be responsible for system connection charges in place at the time of connection.

M 276 21
Adopt
R 014 21

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 014 21 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE PARCELS 234-2.00-1.10 & 25.01 ON THE BOTH SIDES OF BEAVER DAM ROAD; THE PARCELS ARE LOCATED IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE” (CARDINAL GROVE).

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

**Grant
Requests**

Mrs. Jennings presented additional grant requests for Council’s consideration.

M 277 21
**Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$6,500 (\$4,300 from Mr. Hudson’s Councilmanic Grant Account and \$2,200 from Mr. Rieley’s Councilmanic Grant Account) to the Nanticoke Indian Association, Inc. for the Annual Nanticoke Indian PowWow and Cultural Awareness Program.

Motion Adopted: 5 Yeas.

**M 282 21
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 283 21
Countywide
Youth
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$3,600 from Countywide Youth Grants to the Harry K. Foundation for the Halt Child Hunger Initiative.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 284 21
Countywide
Youth
Grant**

A Motion was made by Mr. Hudson to give \$1,500 from Countywide Youth Grants to the Girl Scouts of the Chesapeake Bay Council, Inc. for girl scouting for Latina girls.

Mr. Vincent handed the gavel over to Mr. Rieley.

Mr. Vincent seconded the Motion.

Mr. Rieley handed the gavel over to Mr. Vincent.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 285 21
Countywide
Youth
Grant/
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$6,900 (\$3,900 from Countywide Youth Grants, \$2,000 from Mr. Rieley's Councilmanic Grant Account, and \$1,000 from Mr. Hudson's Councilmanic Grant Account) to the Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley for wishes for children with critical illnesses.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 286 21
Go Into
Executive
Session**

At 10:47 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation, land acquisition, personnel and job applicants' qualifications.

**M 286 21
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Executive
Session**

At 11:00 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation, land acquisition, personnel and job applicants' qualifications. The Executive Session concluded at 11:54 a.m.

**M 287 21
Reconvene
Regular
Session**

At 11:56 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Absent;
Mr. Vincent, Yea**

E/S Action

There was no action on Executive Session matters.

**M 288 21
Recess**

At 11:56 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to recess until 1:30 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Absent;
Mr. Vincent, Yea**

**M 289 21
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to reconvene.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Rules

Mr. Moore read the rules of procedure for zoning hearings.

**Public
Hearing/
CZ 1942**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN

**Public
Hearing/
CZ 1942
(continued)**

PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC (Twin Cedars, LLC) (Tax I.D. No. 533-11.00-42.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On June 10, 2021, the Commission recommended approval with the following conditions:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and for protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.**
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**

**Public
Hearing/
CZ 1942
(continued)**

- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- l. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the front entrance as well as the sides of the property (excluding the rear open space), as presented during the Public Hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
- n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
- o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
- q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated May 13 and June 10, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that David Hutt, Attorney, was present on behalf of the Applicant along with Henry Mast, Principal of Bay Developers, LLC; Phil Tolliver of Morris & Ritchie Associates; Greg Sauter of Geo-Technology Associates; and Joe Caloggero of The Traffic Group. They provided a history of the project and stated that this application is for the redesign of a previously approved RPC and commercial project; that, previously, the Council approved a RPC and a commercial project for this parcel of land (Change of Zone Nos. 1668 and 1669) and that the project was not built and the RPC designation lapsed; that a new application was filed under Change of Zone No. 1909 but because the CR-1 portion of the property was not shown on the Zoning Map, the application was terminated which allowed the County to update the Zoning Map and allowed the Applicant to submit a new application; that the current application is exactly the same as the terminated application Change of Zone No. 1909 except that the new application references the 5.79 acres of CR-1 zoning on the property; that the property consists of 65.32 acres situated along Zion Church Road; that the property is

**Public
Hearing/
CZ 1942
(continued)**

presently unimproved; that there are other residential communities in the area as well as commercial uses and zonings; that the majority of the zoning on Zion Church Road is GR and MR with some C-1; that this application seeks to rezone the entire property to GR with a RPC overlay; that the Application proposes to leave most of the forested area undisturbed and designate it as open space (20.5 acres to remain forested); that the design allows for all the residential areas to be clustered so that each lot would back up to open space or amenities; that the entrance to this community would be off of Zion Church Road; that 254 units are being proposed comprising of 168 apartments within 7 buildings, 44 townhomes across 11 buildings and 42 single-family lots; that the gross density would be 4.31 units per acre; that the property is located within the Growth Area according to the Comprehensive Plan; that this project is located in the Investment Level 3 Area according to the Strategies for State Policies and Spending; that where an existing buffer does not exist, the Developer will install a landscaped buffer; that sidewalks will be installed on both sides of the street; that the proposed amenities include a pool, patio area, clubhouse, tot lot area and a walking trail; that County Code requires 508 parking spaces and they are planning 563 spaces; that there will be a Property Owners Association created to manage and govern the common areas with the community; that DeDOT required a Traffic Impact Study (TIS) which has been completed; that the DeDOT TIS review letter contained three requirements including entrance requirements and a contribution by the Developer for a traffic signal on Zion Church Road; that with this project design, there will be more separation between this project and the RV park and any hunting/shooting activities; that the proposed project provides other housing options in the area, all within the same unified project, and is a superior design when compared to the application made in 2010; that there are no regulated wetlands on the site; that there are predominant wet areas and, therefore, the Applicant plans to stay out of the rear area which will remain wooded; that they have met with DNREC regarding the tax ditch right-of-way; that the application is in compliance with the Comprehensive Plan and the Zoning Code; that they are requesting that Condition M recommended by the Planning and Zoning Commission be modified; that the Planning and Zoning Commission liked the proposed berm which varies in height and moves in and out along the property frontage and the Commission asked that it be extended down the sides of the property; that while it is possible to incorporate this along the frontage on Zion Church Road, there are some drainage ditches that exist along the perimeter of the property that would be difficult to integrate into that enhanced landscaping berming; that the proposed Condition M is in conflict with Condition I and that they propose Condition M to be amended to read as follows: The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all "Limits of Disturbance" within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the Public Hearing, and as described in Pages 15, 16, and 17 of the Applicant's project notebook.

(continued) **There were no public comments.**

M 290 21 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action**
Defer **on Change of Zone No. 1942 filed on behalf of Bay Developers, LLC (Twin**
Action on **Cedars, LLC).**

CZ 1942

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Public
Hearing/
CZ 1922

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 (NEIGHBORHOOD BUSINESS DISTRICT), C-1 (GENERAL COMMERCIAL DISTRICT) AND CR-1 (COMMERCIAL RESIDENTIAL DISTRICT) TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.38 ACRES, MORE OR LESS” (Change of Zone No. 1922) filed on behalf of Baywood, LLC (Tax I.D. No. 234-23.00-270.00, 273.01, 273.02, 273.03, & 273.05) (911 Address: 32147 Long Neck Road, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On May 22, 2021, the Commission recommended approval with the following conditions:

- A. The maximum number of residential units shall be 514.**
- B. All entrances, intersections, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by central sewer through the Inland Bays Preservation Company and Sussex County. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. Interior street design shall meet or exceed the Sussex County street design requirements.**
- F. Construction, material deliveries and site work shall only occur on the property between 7:30 a.m. and 7:00 p.m. Monday through Friday. No Saturday or Sunday hours shall be permitted. A 24 inch by 36 inch “NOTICE” sign confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- G. Street naming and addressing shall be subject to the review and**

**Public
Hearing/
CZ 1922
(continued)**

- approval of the Sussex County Mapping and Addressing Department.
- H. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
 - I. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - J. The Applicant shall coordinate with the Indian River School District to establish a school bus stop area which shall be shown on the Final Site Plan if required by the District.**
 - K. The Central Recreational Complex, including the community clubhouse, indoor and outdoor swimming pools, shall be completed prior to the issuance of the Certificate of Occupancy for the 161st multi-family unit.**
 - L. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
 - M. Lighted signs shall be permitted at each of the four entrances to the development. Those signs shall not exceed 32 square feet in size per side.**
 - N. As proffered by the Applicant, this HR-RPC rezoning was sought for the specific purpose of development of a 514-unit multi-family development depicted on the site plan submitted with this application. In the event the RPC is not developed and is declared null and void pursuant to Section 99-9B or 99-40A of the Sussex County Code, then Sussex County may initiate the rezoning process and schedule public hearings to consider whether to revert this land (currently Tax Map Parcel 2-34-23.00-270.00, 273.01, 273.02, 270.03 and 270.05) back to the zoning classification of the land in existence immediately prior to this HR-RPC rezoning.**
 - O. The Developer shall coordinate with DelDOT for safe and clearly marked pedestrian crossings at the intersection of Long Neck Road and School Lane for the two sections of this development. The Developer shall clearly indicate the means of safe crossing on the Final Site Plan and no apartments shall be constructed on the south side of Long Neck Road until those safety measures are installed.**
 - P. This recommendation is contingent upon an amendment to the Future Land Use Map in the Sussex County Comprehensive Plan revising the designation of a portion of the property from “Commercial Area” to the “Coastal Area” which otherwise surrounds it.**
 - Q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated May 13 and 22, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application and reported that 20 letters have been received in opposition to the application.

**Public
Hearing/
CZ 1922
(continued)**

Jim Fuqua, Attorney, and Robert Tunnell III were present on behalf of the Applicant with Betty Tustin of The Traffic Group, and Jason Palkewicz of Solutions IPEM. Mr. Fuqua reported that the application is to rezone a 54.38 acre parcel of land on both the north and south sides of Long Neck Road to a High Density Residential District (HR) with a Residential Planned Community (RPC) overlay; that the proposed use is a 514 unit multi-family rental/apartment community (Baywood Gardens); that the parcel on the north side of Long Neck Road contains 38.17 acres; that the parcel on the south side of Long Neck Road contains 16.21 acres; that 354 units would be on the north side and 160 units would be on the south side; that HR zoning permits a maximum density of 12 units per acre and the 514 units proposed would result in a density of 9.45 units per acre; and that no commercial uses or buildings are proposed.

Mr. Fuqua reviewed other uses in the area and the history of the Tunnell family's developments in the Long Neck Area over the past 60 years. He stated that a similar application (planned and approved) was filed by the Tunnell's in 2010; however, the development did not proceed due to the recession; that this application addresses a much needed housing type which is rental housing; that the properties are located in Investment Level Areas 1 and 2 according to the Strategies for State Policies and Spending; that this project will be a more affordable alternative to home ownership, providing more affordable housing to workers in eastern Sussex County; that the property is located in the Commercial Area and the Coastal Area according to the Comprehensive Plan, which are both Growth Areas; that the Applicant has requested that the Future Land Use Map be amended to designate all of the Applicant's land to the Coastal Area; that the project would be served by central water and sewer; that stormwater management facilities will be designed and constructed in accordance with DNREC's sediment and stormwater regulations; that there are no State regulated or tidal wetlands on the site; that DelDOT required a Traffic Impact Study (TIS) and there were two studies completed, one for the north parcel and one for the south parcel; that in accordance with the TIS, the Applicant will be required to make certain roadway and traffic signal improvements and to dedicate a permanent easement along the site frontage for a shared path; that the entrance to the northern portion of the site will be on Long Neck Road across from Bayshore Drive with a secondary entrance from Greens Way; that the entrance to the southern portion of the site will be on Long Neck Road directly across from Greens Way with a secondary entrance from School Lane; that the north parcel will contain 354 units located in nine four-story buildings, eight buildings will contain 40 units each and one building will have 34 units; that the south parcel will contain 160 units located in four four-story buildings containing 40 units each; that there will be 210 two-bedroom units and 304 three-bedroom units; that the gross density would be 9.45 units per acre and the net RPC density would be 9.94 units per acre with approximately 27.5 acres of open space which is 51 % of the development; that the recreational facilities will be on the north parcel and will include a clubhouse, outdoor pavilion, indoor and outdoor pools, playground, pickleball and bocce courts, etc.; that the south parcel

**Public
Hearing/
CZ 1922
(continued)**

will have two open space gathering areas with playgrounds; that 602 parking spaces are required per County Code for the north parcel and 791 spaces will be provided; that 287 parking spaces are required per County Code for the south parcel and 320 are provided; that there will be an interior sidewalk system connecting to the shared use path on both the northern and southern portions of the development; that buffers and privacy fencing will be provided; that there is a signalized crosswalk on Long Neck Road at the intersection with Banks Road and School Lane which will allow pedestrians to cross safely between the north and south parcels; that the application will be in character with the area; and that the application is consistent with the Comprehensive Plan and the Zoning Code.

Mr. Fuqua noted that the Applicant voluntarily offered Condition N that if the approved RPC is voided for any reason listed in the Code, the underlying HR-1 zoning would revert back to the zoning in place on the date of approval.

Mr. Fuqua presented a request for a modification of Condition F regarding construction hours. He stated that the Applicant has no objection, in general, to Condition F except for one point: the Condition prohibits any Saturday construction hours. The Applicant is requesting that Condition F be modified so that the prohibition on Saturday hours would only be in effect from May 15 to September 15th (and could be limited to 8:00 a.m. to 5:00 p.m.).

Mr. Fuqua commented on some of the letters in the record relating to traffic, and fire and police needs. He stated that, based on the road and intersection improvements that DelDOT is requiring of the Applicant per the two Traffic Impact Studies, the Development's impact will be mitigated and the long term traffic function in the area will ultimately be improved once the improvements are completed.

Mr. Fuqua stated that the Tunnell Companies has its own safety division and they will be responding to a lot of the lesser involved issues instead of the State Police. He also noted a letter in the record from the Indian River Fire Company thanking the Tunnell Companies for their pledge of \$150,000 toward the purchase of equipment, which is ideally suited for situations involving multi-story condominium and apartment buildings.

Council questioned if there would be a sidewalk between Banks Road and Greens Way, referenced the proposal to widen the current pathway to 10 feet which would be made a part of the multi-modal pathway, and questioned if this should be included in the proposed conditions. Council also commented on traffic burden, adequate Level of Service, the cumulative effect of traffic, the schedule for the four-lane road development, and the need for a municipal police force in the area.

**Public
Hearing/
CZ 1922
(continued)**

In response to questions, the Applicant's representatives stated that this project will result in approximately 2,800 daily trips (which is spread out through the day); and that it is not peak hour traffic. Additionally, DelDOT has a significant number of projects on Route 24, mostly to the east; however, these projects will have a ripple effect and will improve traffic flow in this project area also.

Mr. Rieley requested a copy of the traffic schematic.

Public comments were heard.

There were no public comments in support of the application.

Paul Greenblath spoke in opposition to the proposed project and expressed concern about the additional number of vehicles this project will bring to the area; that traffic in Long Neck is already a bottleneck; that if they build 540 apartments, there will be 2,000 more cars; that the number of accidents will increase; that the area is over-crowded now; and that the County needs to put the brakes on development.

John Dill (representing the Bayshore Townhomes/Condo Owners Association) stated that he was not speaking in favor of nor against the application. He questioned what is actually going to happen at the intersection across from Bayshore Drive and Baywood Gardens – is it just going to be an intersection or will there be a traffic signal there; that they question how vehicles will enter and exit Bayshore Drive; that there is concern about vehicles taking a shortcut through their development; that children's safety is a concern; that he questions if there will be sidewalks on their side of the road to go to Beebe Medical Center; and he questions how the project will affect stormwater management in Bayshore.

Jean Bartlett (representing the Bayshore Condo Association) questioned the impact the apartment buildings will have on the schools and stated that she does not think the area will support 500 more people; that there are not enough jobs for the additional people; that she questions what the 20 foot buffers will look like between Bayshore and the Baywood Gardens apartment buildings that are proposed; and that they do not want construction to take place on Saturdays or Sundays, not even in the winter.

Joyce Jason stated that changing the zoning will set a precedent; that no additional development is needed; that emergency response is a concern; that traffic is a bottleneck; that there is a lengthy line-up of school traffic on School Street to Long Neck Road; that a State Police sub-station is needed in the area; that speed limits need to be enforced; and that more streetlights are needed in the area.

Eul Lee stated that there are no plans for DelDOT to dualize up to Love Creek Bridge on Route 24 until the Year 2045, so she does not know if DelDOT plans to dualize up to the location of the proposed project. Ms.

**Public
Hearing/
CZ 1922
(continued)**

Lee questioned the location of the amenities in the proposed project being located all on one side and she stated that the residents of the southern site would have to walk a total of .4 miles including crossing the road; that the area does not have affordable options and she questions what the rental rates will be for this project. Ms. Lee stated that she questions if Route 24 can handle the additional 2,800 daily trips generated by the Baywood Gardens project and asked Council to look at the cumulative impacts on the area.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 291 21
Defer
Action on
CZ 1922**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to defer action on Change of Zone No. 1922 filed on behalf of Baywood, LLC.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 292 21
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to adjourn at 3:49 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

{An audio recording of this meeting is available on the County's website.}

File #: C219498

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Limerick Drive, The Grande at Canal Point Maintenance Corporation

Type of Conditional Use Requested:

Amendment to Condition #15 of Ordinance 1700 C/Z 1538 recently amended by C/Z 1926, Ordinance # _____
See attached correspondence.

Tax Map #: 234-13.00-1745.00

Size of Parcel(s): 180.60

Current Zoning: MR/RPC

Proposed Zoning: MR/RPC

Size of Building: N/A

Land Use Classification: Coastal

Water Provider: Fidewater

Sewer Provider: Sussex County

Applicant Information

Applicant Name: The Grande at Canal Point Maintenance Corporation

Applicant Address: P.O. Box 594 PO Box 1418

City: Bethany Beach Rehoboth Beach State: DE

Zip Code: 19803-19971

Phone #: (703) 887-8703

E-mail: MelissaGCP@comcast.net

Owner Information

Owner Name: Same

Owner Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Tim Willard

Agent/Attorney/Engineer Address: 26 The Circle

City: Georgetown

State: DE

Zip Code: 19947

Phone #: (302) 856-7777

E-mail: tim@fvsslaw.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

Completed Application

Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description

Provide Fee \$500.00

Optional - Additional Information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

DelDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

_____ Date: _____

Signature of Owner

Mike Perry, Board President Date: 7/20/21

For office use only:

Date Submitted: _____ Fee: \$500.00 Check #: _____
Staff accepting application: _____ Application & Case #: _____
Location of property: _____
Subdivision: _____
Date of PC Hearing: _____ Recommendation of PC Commission: _____
Date of CC Hearing: _____ Decision of CC: _____

File #: CZ 1948
202110897

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use
Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Limerick Drive, The Grande at Canal Point Maintenance Corporation

Type of Conditional Use Requested:

Amendment to Condition #15 of Ordinance 1700 C/Z 1538 recently amended by C/Z 1926, Ordinance #
See attached correspondence.

Tax Map #: 334-13.00-1745.00 Size of Parcel(s): 180.60

Current Zoning: MR/RPC Proposed Zoning: MR/RPC Size of Building: N/A

Land Use Classification: Coastal

Water Provider: Tidewater Sewer Provider: Sussex County

Applicant Information

Applicant Name: The Grande at Canal Point Maintenance Corpotaion

Applicant Address: P.O Box 594

City: Bethany Beach State: DE ZipCode: 19803

Phone #: (703) 887-8703 E-mail: MelissaGCP@comcast.net

Owner Information

Owner Name: Same

Owner Address: _____

City: _____ State: _____ Zip Code: _____

Phone #: _____ E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Tim Willard

Agent/Attorney/Engineer Address: 26 The Circle

City: Georgetown State: DE Zip Code: 19947

Phone #: (302) 856-7777 E-mail: tim@fwsslaw.com



Check List for Sussex County Planning & Zoning Applications

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Completed Application

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- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
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- Deed or Legal description

Provide Fee \$500.00

Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

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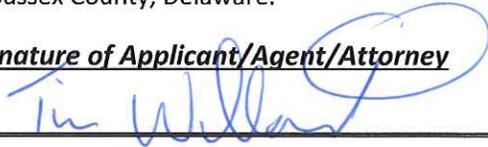
DeIDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 7-20-21

Signature of Owner



Date: _____

For office use only:

Date Submitted: _____ Fee: \$500.00 Check #: _____

Staff accepting application: _____ Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____ Recommendation of PC Commission: _____

Date of CC Hearing: _____ Decision of CC: _____

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CZ 1948 The Grande at Canal Point Maintenance Operations Corp.**

APPLICANT: **The Grande at Canal Point Maintenance Operations Corp.**

FILE NO: **OM-9.04**

TAX MAP & PARCEL(S): **334-13.00-334.00 & 1448.00 through 1750.00**

LOCATION: **Lying on the east side of Hebron Road, approximately 0.19 mile south of the intersection of Hebron Road and Holland Glade Road (SCR 271)**

NO. OF UNITS: Click or tap here to enter text.

GROSS ACREAGE: **180.60**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 1**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **No**

If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Christine Fletcher** at **302-855-7719** for additional information on charges.

(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**

Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? **N/A**

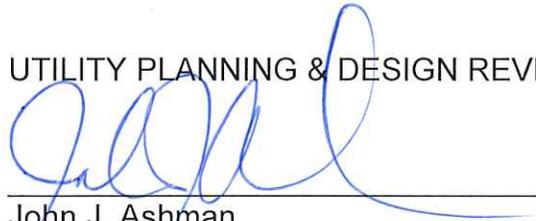
(8). Comments: **Petitioned for relief from Condition F. Want to change to allow an electric gate.**

(9). Is a Sewer System Concept Evaluation required? **Not at this time**

(10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**

(11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Christine Fletcher

FUQUA, WILLARD, STEVENS & SCHAB, P.A.

File

PAYNTER HOUSE

26 THE CIRCLE OR P.O. BOX 250
GEORGETOWN, DELAWARE 19947
PHONE 302-856-7777
FAX 302-856-2128
onthecircle@fwsslaw.com

JAMES A. FUQUA, JR.
WILLIAM SCHAB
TIMOTHY G. WILLARD
TASHA MARIE STEVENS
NORMAN C. BARNETT
www.fwsslaw.com

HART HOUSE

9 CHESTNUT STREET
GEORGETOWN, DELAWARE 19947
PHONE 302-856-9024
FAX 302-856-6360
realestate@fwsslaw.com

REHOBOTH OFFICE

20245 BAY VISTA ROAD, UNIT 203
REHOBOTH BEACH, DE 19971
PHONE 302-227-7727
FAX 302-227-2226

LEWES REAL ESTATE OFFICE
16698 KINGS HIGHWAY, SUITE B
LEWES, DELAWARE 19958
PHONE 302-645-6626
FAX 302-645-6620
realestate@fwsslaw.com

July 7, 2021

Emailed and Hand Delivered

Michael H. Vincent, President
Sussex County Council
2 The Circle
Georgetown, DE 19947

**RE: Change of Zone 1926-CP
Application for Reconsideration**

Dear President Vincent & County Council:

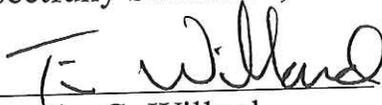
Please accept this letter as the applicant's request for reconsideration of Council's June 29th, 2021 approval conditions amending Condition 15 in Ordinance No. 1700. The reasons for this request for reconsideration are as follows:

Specifically, condition (f) includes specific dimensions for the dock construction. As the record indicates, DNREC and the Corps of Engineers have jurisdiction in permitting the design, construction and location of such docks. The parameters that the Council has imposed apparently will not be acceptable with these agencies. Please find attached a letter from Ed Launay explaining the conflict and offering a clarification. Attached are tracked conditions which should satisfy this issue for your consideration. It includes deleting the no electricity condition just in order to have a operating fob gate.

While the applicant understands the Council's effort's to address some comments made at the hearing, the scope of these conditions appear to exceed their scope of review and would defeat the intent of their approval, to allow a legally approved and safe launch site.

Therefore the applicant respectfully asks for reconsideration of these specific conditions.

Respectfully Submitted,

By 
Timothy G. Willard

Attachments

Pc: Everett Moore, County Attorney
Todd Lawson, County Administrator
Jamie Whitehouse, Planning Director
John Paradee, Esq.
Canal Point HOA

July 7, 2021

ERI Project No. 1012#1126

Michael H. Vincent, President
Sussex County Council
2 The Circle
Georgetown, DE 19947

**RE: Change of Zone 1926-CP
Application for Reconsideration**

Dear President Vincent & County Council,

I have been asked by the applicant and their counsel, Mr. Timothy Willard, Esquire to provide a letter discussing conditions f) through f)iii as detailed in the Council's June 29th, 2021 approval to amend Condition 15 in Ordinance No. 1700. In part, I am writing you to confirm one aspect of the condition and then state the technical reasons why the dimensions specified in conditions f) through f)iii are not workable from a practical standpoint.

Beginning with condition f)iii, it discusses a floating dock to be used for the purpose of launching kayaks (canoes, kayaks, paddleboards, etc.). A maximum width of 8 feet wide is given. It then requires that the floating dock be centrally located and be perpendicular to a landward 6 foot wide fixed dock section with two sides, each 12 feet long extending on each side. It appears the intent is to ensure that the long side of the rectangular dock is set in the water parallel to the Lewes-Rehoboth Canal shoreline. As I also understand this specification, it is setting the maximum size of a future rectangular floating dock as 8 feet wide by 30 feet long (12+6+12=30).

A floating dock of this size will be adequate to provide enough floatation for the dock to be safe and stable in the environment of the Lewes-Rehoboth Canal. It also provides enough room for users to safely maneuver and manage the launching of a canoe or kayak. I can say that based upon my experience in design and permitting other community docks for similar uses, 8'x24' is the minimum that I would recommend for safety and stability. Therefore, this particular condition does not pose any problem. However, the other dimensions and specifications listed in the June 29th approval are very problematic.

Please note a couple of items. The maximum width of a pier or ramp extending to the dock allowed by DNREC either fixed or floating is generally 4 feet over water and 3 feet over any state regulated wetland. The 6 foot width listed in conditions f)i and f)ii will not be approved by DNREC as it conflicts with their policies and regulations.

Furthermore, with respect to these two conditions and the lengths listed, lengths of the ramps or fixed piers accessing the dock must be based entirely upon actual site conditions. These include the distance from the upland boundary over wetlands to the water's edge and then the distance that the dock must be placed out into the water to have sufficient depth to float the dock during low tide conditions. DNREC and the Corps of Engineers require at least 18 inches of water below the submerged part of the floating dock at mean low water. More depth is preferable in order to prevent the floating dock from sitting on the bottom even occasionally.

One point of confusion may have stemmed from review of the kayak dock plan previously approved by DNREC and the Corps which shows the 8'x30' floating dock with an attached 10 foot long x 6 foot wide with a "T" shaped stem. To clarify that plan, this stem is all part of the floating dock structure. The 10 foot x 6 foot "T" shaped stem provides the place where a ramp (aka gangway) rolls back and forth as the tides vary. The ramp then attaches to a fixed pile supported pier attached to the land, to which the ramp (gangway) is attached. The dimension for the fixed pier and attached ramp or gangway are kept by DNREC at no more than 4 feet as stated earlier.

I also stated at the hearing that in order to meet DNREC required distances from other property lines, the future dock location may be shifted somewhat northwest of the previously approved location. The exact lengths of any ramp or fixed access pier simply cannot be known or specified at this point.

This brings me to condition f) which is especially problematic. Condition f) requires that the kayak dock extend no further than 18 feet from the mean high water line along the bank. At this location, the distance between the mean high water line and mean low water line is at least 6 feet or more. The dock will be 8 feet wide. This allows only four feet to achieve a depth of at least two or more feet at mean low water so the kayak dock will fully and properly float. This will not be possible in a distance of 18 feet from mean high water.

As I testified at the hearing, the Corps of Engineers has mapped the navigational channel in the Lewes-Rehoboth Canal. They impose a 10 foot buffer landward of the navigable channel beyond which no dock, pier, piling or any structure can extend. DNREC also has their own standard for allowable encroachment into the Canal.

The plan for the kayak launch dock previously approved by DNREC and the Corps authorized the floating kayak dock to extend into the canal 30 feet beyond the mean high water line. This met all required standards to avoid any safety or navigational impact. I can also certify that I have reviewed the length of the other docks and piers extending into the canal on both sides. In this project vicinity a distance of 25 to 30 feet is quite common.

I have also suggested to the homeowner's association that a cradle or similar apparatus be attached to the future floating dock to allow for better safety and ease of launching canoes or kayaks. If a cradle is attached to the face of the floating dock, this is where extension into the channel will be measured from. Depending on the manufacturer, cradles are usually less than 4

feet wide. Adequate room is needed for a properly designed facility. The 18 foot distance listed in condition f) is simply not adequate.

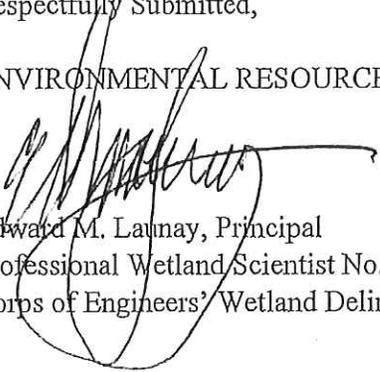
I trust that I have given sufficient explanation as to why specifying exact dimensions of pier or ramp structures is not practical as a condition of approval for this project. Respectfully, I would offer the following for consideration as a revised conditions.

1. No part of the kayak launch dock including any kayak cradle for launch may extend beyond the Corps of Engineers Lewes-Rehoboth Canal 10 foot wide navigational channel buffer. The encroachment of the structure must also be in compliance with all DNREC regulations.
2. The main portion of the floating kayak dock will not be greater than 8 feet wide by 30 feet long. An attachment to the rear of the rectangular dock to allow for placement of a ramp no larger than 8 feet long by 6 feet wide will be permitted, if needed. The long side of the rectangular dock will be parallel to the shoreline of the Lewes-Rehoboth Canal.
3. Any ramp or gangway accessing the floating dock will be no wider than four feet.
4. Any fixed pier over water or wetlands constructed as part of access to the kayak floating dock will be no wider than 4 feet.
5. In addition to other required approvals listed herein, actual construction or installation of any dock, ramp, pier or support piling shall not occur without obtaining all required permits from DNREC and the U.S. Army Corps of Engineers.

Should any Council Member or Planning and Zoning Department Staff have any questions regarding this letter, I am available at their convenience.

Respectfully Submitted,

ENVIRONMENTAL RESOURCES, INC.



Edward M. Launay, Principal
Professional Wetland Scientist No. 875, Society of Wetland Scientists
Corps of Engineers' Wetland Delineator Certification No. WDCP93MD0510036B

Cc: Timothy Willard, Esquire

**CP Town Homes LLC
Canal Point HOA
C/Z 1538
Reconsideration Conditions Tracked**

15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC's Grand at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents subject to the following requirements:

a. This dock shall only be utilized for kayaks, canoes, and paddleboards or similar non-motorized vessels.

b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked, or otherwise permitted along the dock or landward of it within the park property.

c. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the park property.

d. No storage facilities, or other structures or improvements shall be located along the dock or landward of it within the park property.

e. No bathrooms, running water, ~~electricity~~/lighting or parking shall be located along the dock or landward of it within the park property.

f. ~~The permitted dock be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than eighteen (18) feet from the mean highwater mark and which shall be no larger than the following combined specifications shall comply with the following conditions:~~

i. ~~— A ramp measuring six (6) feet in width by eight (8) feet in length which runs to and connects with a fixed pier.~~

ii. ~~— A fixed pier measuring six (6) feet in width by sixteen (16) feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal; and~~

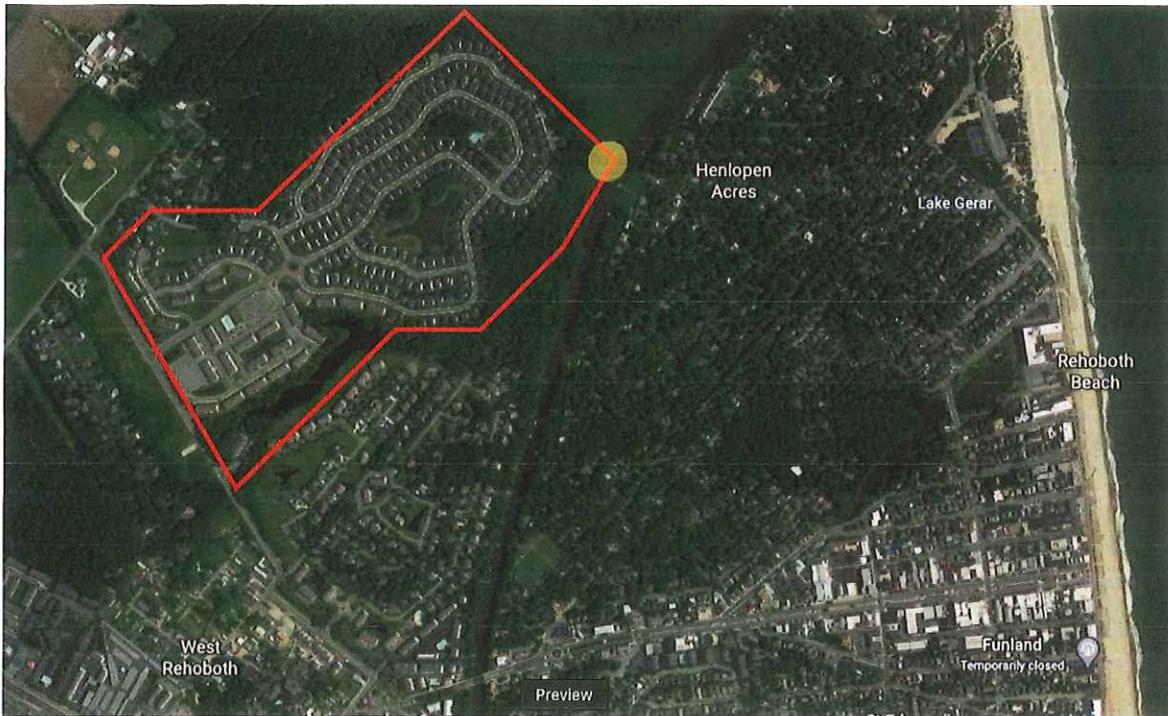
iii. ~~A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring eight (8) feet in length into the canal with two parallel sides perpendicular to the fixed pier each measuring twelve (12) feet in length.~~

- (1) No part of the kayak launch dock including any kayak cradle for launch may extend beyond the Corps of Engineers Lewes-Rehoboth Canal 10 foot wide navigational channel buffer. The encroachment of the structure must also be in compliance with all DNREC regulations.
- (2) The main portion of the floating kayak dock will not be greater than 8 feet wide by 30 feet long. An attachment to the rear of the rectangular dock to allow for placement of a ramp no larger than 8 feet long by 6 feet wide will be permitted, if needed. The long side of the rectangular dock will be parallel to the shoreline of the Lewes-Rehoboth Canal.
- (3) Any ramp or gangway accessing the floating dock will be no wider than four feet.
- (4) Any fixed pier over water or wetlands constructed as part of access to the kayak floating dock will be no wider than 4 feet.
- (5) In addition to other required approvals listed herein, actual construction or installation of any dock, ramp, pier or support piling shall not occur without obtaining all required permits from DNREC and the U.S. Army Corps of Engineers.

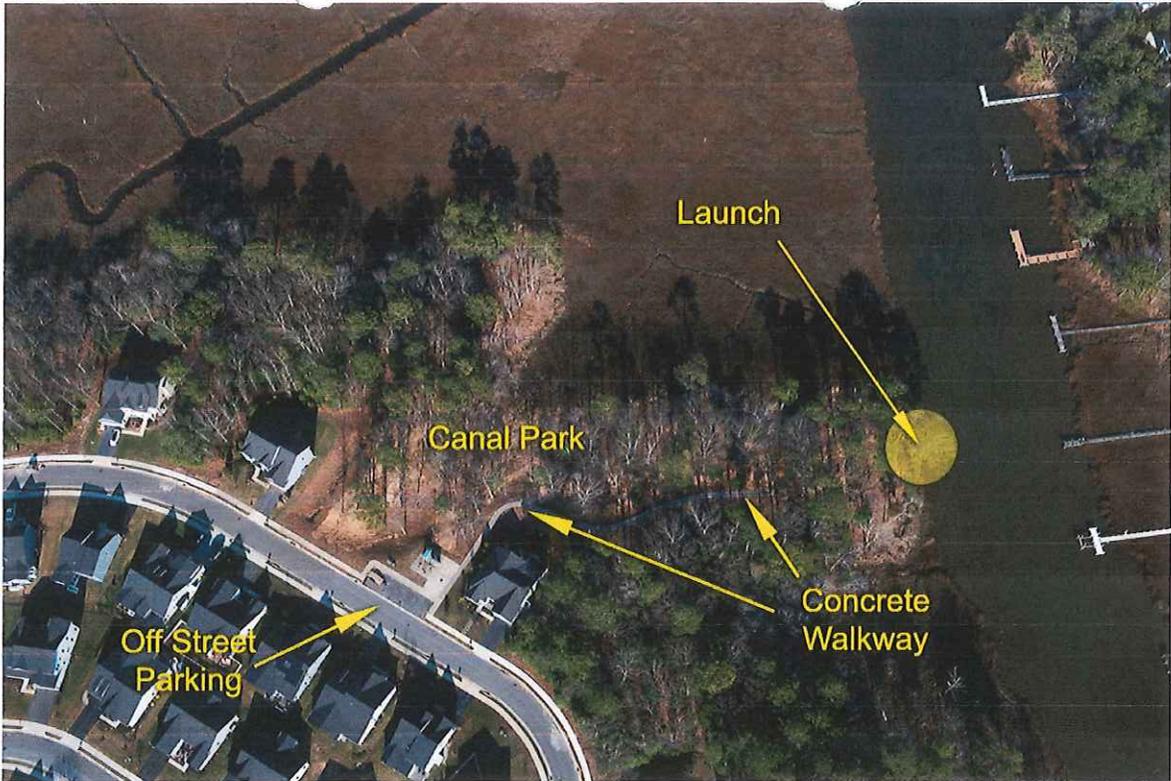
g. The permitted dock be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.

h. No other piers, docks, boat ramps, or other water-related facilities shall be permitted.

i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC.



The Grande at Canal Point is located on the west side of the Rehoboth / Lewes Canal, North of Canal Corkran, and across from Henlopen Acres. Numerous docks line both sides of the Lewes and Rehoboth Canal ("Canal"). The light yellow circle at the upper right corner of the area outlined in red is the planned location for a dock and launch facility.



In the back of the Canal Pointe community is a private common area known as Canal Park, owned by the HOA, which abuts a marsh area and the Canal. Off-street parking is available.



The concrete walkway depicted above was constructed when development of the community first started, and leads to the Canal in the area of Canal Park designated to be a future launch (if approved).

In 2017, after control of the HOA was turned over from the Developer to the residents of Canal Pointe, the HOA began the process of planning for a dock and acquiring the necessary permits from the Delaware Department of Natural Resources and Environmental Control (DNREC) and the Army Corps of Engineers ("Army Corps"). At the time, the HOA was unaware of Condition 15. DNREC and the Army Corps both issued permits to install the dock. Copies of the permits are included in this package submitted to the commission. Those permits expired December 31, 2020, because once the HOA became aware of Condition 15 for the first time in 2018, in the context of other activities related to HOA/Developer turnover, all efforts to fund and build a dock were halted. The HOA had hoped to have a hearing on this issue before the permits expired, but COVID-19 intervened.



If approved, the HOA plans to install one recreational dock/pier for the community to launch small, non-motorized watercraft, such as kayaks, canoes and paddle boards and for fishing. The HOA has no intent, and does not herein seek, to use the dock/pier for launching or parking of motorized watercraft. Removal of Condition 15 would not permit individual homeowners of Canal Pointe to construct a dock/pier, as no individual homeowner owns land adjacent to the canal – all such land in Canal Pointe bordering the canal is the property of the HOA, and designated as common area for the community.

The HOA is not aware of any other communities having county restrictions against building docks on the canal. Docks line both sides of the canal.



The lack of a dock, pier, or other facility also creates a safety issue for Canal Pointe residents. The photograph above shows the bank of the Canal, where residents so inclined might otherwise launch kayaks, canoes and paddle boards into the canal, absent a proper facility to do so. The land in this location is muddy and unstable, especially at low tide. The HOA believes that providing safe and secure access to the Canal for its homeowners will not only be safer for its residents, but will also help preserve at least this portion of the bank of the Canal from further erosion from the wake created by motorized watercraft that already traverse the canal regularly.

The HOA currently lacks the necessary DNREC and Army Corps permits to construct the dock, because those permits expired after the HOA became aware of the need to first remove Condition 15. The HOA respectfully requests the removal of Condition 15 from Ordinance 1700 as a first step to begin the process again of seeking to enhance this amenity for the Sussex County homeowners we represent.

Attachments:

- Ordinance 1700,
- Community vote results.
- DENREC building permit.
- Army Corp of Engineers permit with dock plans.

**The Grande at Canal Pointe Maintenance Association
2019 Special Ballot Regarding Modifications to the Canal Pointe Plans - 2004**

The Grande at Canal Pointe Maintenance Association ("HOA") Board held a community vote on modifications to Grande at Canal Pointe Record and Landscape Site Plans originally filed with Sussex County by the Developer in 2004.

As of January 10, 2020, a total of (180) owners have voted either by paper or electronic ballot and the results are listed below.

Based on total number of homes of (288), the majority threshold of 51% or (147) owners has been achieved in all categories and questions.

1. Eliminate from the developer's landscape site plan the planting of trees around the storm water management pond bounded by Worcester, Bridgewater, and Liverpool.
 - (151) Owners APPROVE the proposed modification to the Landscape Site Plan
 - (29) Owners OPPOSE the proposed modification to the Landscape Site Plan

2. Eliminate from the developer's landscape site plan the trail off the parking lot on Gloucester between lots 45 and 46.
 - (162) APPROVE the proposed modification to the Landscape Site Plan
 - (18) OPPOSE the proposed modification to the Landscape Site Plan

3. Removal of Ordinance 1700 item number 15 which states "no piers, docks, boat ramps, or other water related recreational facilities shall be permitted."
 - (163) APPROVE the proposed modification to the Landscape Site Plan
 - (17) OPPOSE the proposed modification to the Landscape Site Plan

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Nicholas Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: April 15th, 2021
RE: Staff Analysis for CZ 1926 CP Townhomes, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1926 CP Townhomes, LLC to be reviewed during the April 22, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for an Amendment to the Conditions of Approval for the existing Change of Zone (CZ 1538) for Rebay, LLC for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00. Specifically, the applicant is requesting an amendment to Condition "15" which requires the provision of "No piers, docks, boat ramps, or other water-related facilities shall be permitted" on the site. The applicant has suggested that this condition be struck from the Conditions of Approval and all other conditions would remain. The previous Change of Zone application was recommended for approval by the Planning and Zoning Commission at their meeting of Thursday, June 10th, 2004 and approved by the Sussex County Council at their meeting of Tuesday, June 29th, 2004 and the change of zone was adopted through Ordinance No. 1700. Copies of the Meeting Minutes from both of these meetings have been attached to this memo for circulation to members of the Commission and Council.

The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271). The property consists of 180.60 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.

Based on the analysis of the land use, surrounding zoning, and uses, an Amendment to Condition "15" of the previously approved Change of Zone (CZ 1538) could be considered as being consistent with the land use, area zoning, and surrounding uses.



C/Z 1926 – CP Townhomes, LLC (Canal Point RPC)

BM

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium-Density Residential District-Residential Planned Community to a MR-RPC Medium-Density Residential District - Residential Planned Community to amend conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities for a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 180.60 acres, more or less. The property is lying on the east side of Hebron Road approximately 0.19 miles south of the intersection of Hebron Road and Holland Glade Road (S.C. R. 271). 911 Address: N/A Tax Parcels: 334-13.00-334.00, 1448.00 through 1750.00

The Commission discussed this application which has been deferred since April 22, 2021.

Mr. Mears moved that the Commission recommend approval of an amendment to Condition #15 of Change of Zone # 1926 and Ordinance #1700 regarding docks within the Canal Pointe RPC based upon the record made during the public hearing and for the following reasons:

1. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.
2. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.
3. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.
4. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the environment than many of these existing docks and the motorized boats that they serve.
5. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.
6. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:
“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.”

Jamie Whitehouse

From: Town Clerk Henlopen Acres <townclerk@henlopenacres.com>
Sent: Wednesday, September 8, 2021 3:34 PM
To: Lester Shaffer
Cc: Jamie Whitehouse
Subject: Canal Pointe
Attachments: signed canal pointe letter with attachments.pdf; Canal point video.3gp

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Good Afternoon Gentlemen,

Attached please find a letter, photos and a video in reference to the wetlands adjacent to The Grande at Canal Pointe subdivision. Should you wish to discuss this information further, Mayor Joni Reich can be reached by email at joni.reich@gmail.com <joni.reich@gmail.com>

Thank you

--
Lisa Michaels
Town Clerk-Henlopen Acres
104 Tidewaters
Henlopen Acres, DE 19971
302-227-6411 Phone
302-227-3978 Fax

Town of Henlopen Acres

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Mayor

Joni Reich

Commissioners:

Andrew Brittingham

Timothy Hidell

Jeffrey Jacobs

Beatrice Richards

John Staffier

Richard Thompson

Town Manager:

Thomas Roth

Maintenance

Supervisor:

Alexander McClure

Security

Supervisor:

Lee Stewart

Town Solicitor:

Glenn C. Mandalas

Baird Mandalas

Brockstedt LLC

Member:

Association of

Coastal Towns

Delaware League of

Local Governments

Sussex County

Association of

Towns

Delaware Rural

Water Association

American Shore and

Beach Preservation

Association

September 8, 2021

RECEIVED

SEP 08 2021

SUSSEX COUNTY
PLANNING & ZONING

VIA EMAIL & REGULAR MAIL

Sussex County Administrative
Attn: Chief Constable Lester Shaffer
Office Building, 1st Floor
2 The Circle
P.O. Box 589
Georgetown, DE 19947

RE: Grande at Canal Pointe

Dear Constable Shaffer:

The Commissioners of the Town of Henlopen Acres respectfully request investigation of the denuding of wetlands adjacent to the residential subdivision known as The Grande at Canal Pointe (the "Subdivision"). The Town of Henlopen Acres is a small, incorporated municipality of 200 homes on 156 acres that borders the Lewes Rehoboth Canal and is directly opposite the Subdivision.

For background, the Subdivision was approved by Sussex County Council on May 25, 2004 and denominated as C/Z 1538 (the "Application"). Notably, except for a small communal, recreational area commonly referred to as "Canal Park," the entire border of the subdivision consists of Federal and State protected wetlands.

When the Subdivision Application was presented to County Council in 2004, there was significant public opposition to the proposed subdivision related to the potential impacts of the Subdivision on existing natural buffers, wetlands, open space, wildlife habitat, endangered species, and nutrient management. The Delaware Department of Natural Resources and Environmental Control (DNREC) also expressed concerns about the Subdivision's potential impact on the adjacent wetland areas.

Accordingly, Sussex County Council approved C/Z 1538 subject to twenty (20) conditions, including Condition 14, which reads as follows:

14. State Wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.



The Town of Henlopen Acres and its residents value the protection of environmentally sensitive areas, and we request Sussex County officials to investigate the Subdivision's violation of Condition 14 on the basis of the natural wetlands buffer bordering the perimeter of the Subdivision having been denuded.

It is our understanding that this issue was previously brought to your attention, although we do not believe you were made aware of the exact location where Condition 14 is being repeatedly and regularly violated, as no formal remedial action has been taken by Sussex County to our knowledge. We have attached a map of the Subdivision where the vegetation is being cut along the Canal behind several homes in Grande at Canal Pointe. (See lines marked in color on attached map, with the "X" indicating the entrance to the Subdivision's Park.)

We have also attached photographs of the area before and after the cutting, along with a video clip that identifies the area west of Canal Park where the vegetation has been repeatedly removed. The video clip begins with the area of concern where the vegetation has clearly been removed and then pans right toward Canal Park some distance away at the far end. We understand removal of invasive species (i.e. Phragmites) from the wetlands area is permissible under certain circumstances with proper permitting; however, the vegetation removal far exceeds the removal of invasive species and is more of a complete clear-cutting.

The Town of Henlopen Acres believes the Subdivision's removal of vegetation from the wetlands area is cause for concern that the Subdivision is not maintaining the wetland areas as non-disturbance areas in violation of Condition 14, requiring further investigation and possible enforcement action by Sussex County.

We thank you in advance for your prompt attention to this matter and look forward to receiving an investigation report once the County has inspected the Subdivision for compliance with Condition 14.

Sincerely,



Joni Reich
Mayor, Town of Henlopen Acres

cc:
Town of Henlopen Acres Manager
Town of Henlopen Acres Commissioners
Glenn Mandalas, Town Attorney
Director Jamie Whitehouse, jamie@sussexcountyde.gov

Attachments



